116th Congress
2d Session

COMMITTEE PRINT

Changes in existing law made by H.R. 2, Investing in a New Vision for the Environment and Surface Transportation in America Act as reported

PREPARED FOR THE

COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

July 1, 2020

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In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

* * * * * * *

CHAPTER 1—FEDERAL-AID HIGHWAYS

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§ 101. Definitions and declaration of policy

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

(1) ADAPTATION.—The term "adaptation" means an adjustment in natural or human systems in anticipation of, or in response to, a changing environment in a way that moderates negative effects of extreme events or climate change.

[(1)] *(2)* APPORTIONMENT.—The term "apportionment" includes unexpended apportionments made under prior authorization laws.

[(2)] *(3)* ASSET MANAGEMENT.—The term "asset management" means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality in-

formation, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.

[(3)] *(4)* CARPOOL PROJECT.—The term "carpool project" means any project to encourage the use of carpools and vanpools, including provision of carpooling opportunities to the elderly and individuals with disabilities, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, designating existing facilities for use for preferential parking for carpools, and real-time ridesharing projects, such as projects where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided through the use of location technology to quantify those direct costs, subject to the condition that the cost recovered does not exceed the cost of the trip provided.

(5) CLIMATE CHANGE.—The term "climate change" means any significant change in the measures of climate lasting for an extended period of time, and may include major changes in temperature, precipitation, wind patterns, or sea level, among others, that occur over several decades or longer.

[(4)] *(6)* CONSTRUCTION.—The term "construction" means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such term includes—

(A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, *assessing resilience,* mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;

(B) reconstruction, resurfacing, restoration, rehabilitation, and preservation;

(C) acquisition of rights-of-way;

(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) elimination of hazards of railway-highway grade crossings;

(F) elimination of roadside hazards;

(G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, wid-

ening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

(H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

(7) CONTEXT SENSITIVE DESIGN PRINCIPLES.—The term "context sensitive design principles" means principles for the design of a public road that—

(A) provides for the safe and adequate accommodation, in all phases of project planning, design, and development, transportation facilities for users, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles; and

(B) considers the context in which the facility is planned to be constructed to determine the appropriate facility design.

[(5)**]** *(8)* COUNTY.—The term "county" includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

(9) EVACUATION ROUTE.—The term "evacuation route" means a transportation route or system that—

(A) is used to transport—

(i) the public away from an emergency event; or

(ii) first responders and recovery resources in the event of an emergency; and

(B) is identified, consistent with sections 134(i)(2)(I)(iii) and 135(f)(10)(C)(iii), by the eligible entity with jurisdiction over the area in which the route is located for the purposes described in subparagraph (A).

[(6)**]** *(10)* FEDERAL-AID HIGHWAY.—The term "Federal-aid highway" means a public highway eligible for assistance under this chapter other than a highway functionally classified as a local road or rural minor collector.

[(7)**]** *(11)* FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term "Federal Lands access transportation facility" means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

[(8)**]** *(12)* FEDERAL LANDS TRANSPORTATION FACILITY.—The term "Federal lands transportation facility" means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).

[(9)] *(13)* FOREST DEVELOPMENT ROADS AND TRAILS.—The term "forest development roads and trails" means forest roads and trails under the jurisdiction of the Forest Service.

[(10)] *(14)* FOREST ROAD OR TRAIL.—The term "forest road or trail" means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

(15) GREENHOUSE GAS.—The term "greenhouse gas" has the meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)).

[(11)] *(16)* HIGHWAY.—The term "highway" includes—

(A) a road, street, and parkway;

(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure including public roads on dams, sign, guardrail, and protective structure, in connection with a highway; and

(C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

[(12)] *(17)* INTERSTATE SYSTEM.—The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

[(13)] *(18)* MAINTENANCE.—The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.

[(14)] *(19)* MAINTENANCE AREA.—The term "maintenance area" means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

[(15)] *(20)* NATIONAL HIGHWAY FREIGHT NETWORK.—The term "National Highway Freight Network" means the National Highway Freight Network established under section 167.

[(16)] *(21)* NATIONAL HIGHWAY SYSTEM.—The term "National Highway System" means the Federal-aid highway system described in section 103(b).

(22) NATURAL INFRASTRUCTURE.—

(A) IN GENERAL.—The term "natural infrastructure" means infrastructure that uses, restores, or emulates natural ecological processes that—

(i) is created through the action of natural physical, geological, biological, and chemical processes over time;

(ii) is created by human design, engineering, and construction to emulate or act in concert with natural processes; or

(iii) involves the use of plants, soils, and other natural features, including through the creation, restoration, or preservation of vegetated areas using materials appropriate to the region to manage stormwater and runoff, to attenuate flooding and storm surges, and for other related purposes.

(B) INCLUSION.—The term "natural infrastructure" includes green infrastructure and nature-based solutions.

[(17)**]** *(23)* OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term "operating costs for traffic monitoring, management, and control" includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

[(18)**]** *(24)* OPERATIONAL IMPROVEMENT.—The term "operational improvement"—

(A) means (i) a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs, and (ii) such other capital improvements to public roads as the Secretary may designate, by regulation; and

(B) does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.

[(19)**]** *(25)* PROJECT.—The term "project" means any undertaking eligible for assistance under this title.

[(20)**]** *(26)* PROJECT AGREEMENT.—The term "project agreement" means the formal instrument to be executed by the Secretary and the recipient as required by section 106.

(27) PROTECTIVE FEATURE.—

(A) IN GENERAL.—The term "protective feature" means an improvement to a highway or bridge designed to increase resilience or mitigate the risk of recurring damage or the cost of future repairs from climate change effects, extreme events, seismic activity, or any other natural disaster.

(B) INCLUSIONS.—The term "protective feature" includes—

(i) raising roadway grades;

(ii) relocating roadways to higher ground above projected flood elevation levels or away from slide prone areas;

(iii) stabilizing slide areas;

(iv) stabilizing slopes;

(v) lengthening or raising bridges to increase waterway openings;

(vi) increasing the size or number of drainage structures;

(vii) replacing culverts with bridges or upsizing culverts;

(viii) installing seismic retrofits on bridges;

(ix) scour, stream stability, coastal, and other hydraulic countermeasures; and

(x) the use of natural infrastructure.

[(21)**]** *(28)* PUBLIC AUTHORITY.—The term "public authority" means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

[(22)**]** *(29)* PUBLIC ROAD.—The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

(30) REPEATEDLY DAMAGED FACILITY.—The term "repeatedly damaged facility" means a road, highway, or bridge that has required repair and reconstruction activities on 2 or more occasions due to natural disasters or catastrophic failures resulting in emergencies declared by the Governor of the State in which the road, highway, or bridge is located or emergencies or major disasters declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(31) RESILIENCE.—

(A) IN GENERAL.—The term "resilience" means, with respect to a facility, the ability to—

(i) anticipate, prepare for, or adapt to conditions; or

(ii) withstand, respond to, or recover rapidly from disruptions.

(B) INCLUSIONS.—Such term includes, with respect to a facility, the ability to—

(i) resist hazards or withstand impacts from disruptions;

(ii) reduce the magnitude, duration, or impact of a disruption; or

(iii) have the absorptive capacity, adaptive capacity, and recoverability to decrease vulnerability to a disruption.

[(23)**]** *(32)* RURAL AREAS.—The term "rural areas" means all areas of a State not included in urban areas.

[(24)**]** *(33)* SAFETY IMPROVEMENT PROJECT.—The term "safety improvement project" means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.

[(25)**]** *(34)* SECRETARY.—The term "Secretary" means Secretary of Transportation.

[(26)**]** *(35)* STATE.—The term "State" means any of the 50 States, the District of Columbia, or Puerto Rico.

[(27)] *(36)* STATE FUNDS.—The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department.

[(28)] *(37)* STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" has the same meaning given such term in section 148(a).

[(29)] *(38)* STATE TRANSPORTATION DEPARTMENT.—The term "State transportation department" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

(39) TRANSPORTATION SYSTEM ACCESS.—The term "transportation system access" means the ability to travel by automobile, public transportation, pedestrian, and bicycle networks, measured by travel time, taking into consideration—

(A) the impacts of the level of travel stress for non-motorized users;

(B) costs for low-income travelers; and

(C) the extent to which transportation access is impacted by zoning policies and land use planning practices that effect the affordability, elasticity, and diversity of the housing supply.

[(30)] *(40)* TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(A) IN GENERAL.—The term "transportation systems management and operations" means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

(B) INCLUSIONS.—The term "transportation systems management and operations" includes—

(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

[(31)] *(41)* TRIBAL TRANSPORTATION FACILITY.—The term "tribal transportation facility" means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

[(32)] *(42)* TRUCK STOP ELECTRIFICATION SYSTEM.—The term "truck stop electrification system" means a system that delivers heat, air conditioning, electricity, or communications to a heavy-duty vehicle.

[(33)] *(43)* URBAN AREA.—The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

[(34)] *(44)* URBANIZED AREA.—The term "urbanized area" means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.

(45) TRANSPORTATION DEMAND MANAGEMENT; TDM.—The terms "transportation demand management" and "TDM" mean the use of strategies to inform and encourage travelers to maximize the efficiency of a transportation system leading to improved mobility, reduced congestion, and lower vehicle emissions.

(46) TRANSPORTATION DEMAND MANAGEMENT STRATEGIES.—The term "transportation demand management strategies" means the use of planning, programs, policy, marketing, communications, incentives, pricing, and technology to shift travel mode, routes used, departure times, number of trips, and location and design work space or public attractions.

(b) DECLARATION OF POLICY.—

(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and [Defense,] *Defense Highways,* because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.

(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the "Interstate System"), so named because of its primary importance to the national de-

fense, is essential to the national interest. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the forty years' appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1996, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st [Century] *century*;

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

(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

(ii) flow of interstate and international commerce and freight transportation; and

(iii) travel movements essential for national security;

(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

(F) the connection between land use and infrastructure is significant;

(G) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life[; and]*;*

(H) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st [Century.] *century;*

(I) safety is the highest priority of the Department of Transportation, and the Secretary and States should take

all actions necessary to meet the transportation needs of the 21st century for all road users;

(J) climate change presents a significant risk to safety, the economy, and national security, and reducing the contributions of the transportation system to the Nation's total carbon pollution is critical; and

(K) the Secretary and States should take appropriate measures and ensure investments to increase the resilience of the Nation's transportation system.

(4) EXPEDITED PROJECT DELIVERY.—

(A) IN GENERAL.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process *while ensuring that environmental protections are maintained*.

(B) POLICY OF THE UNITED STATES.—Accordingly, it is the policy of the United States that—

(i) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

(ii) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

(iii) project sponsors shall not be prohibited from carrying out preconstruction project development activities concurrently with the environmental review process;

(iv) programmatic approaches shall be used to reduce the need for project-by-project reviews and decisions by Federal agencies; and

(v) the Secretary shall identify opportunities for project sponsors to assume responsibilities of the Secretary where such responsibilities can be assumed in a manner that protects public health, the environment, and public participation.

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid highway which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter in-

curred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

* * * * * * *

§ 104. Apportionment

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

[(A) $453,000,000 for fiscal year 2016;
[(B) $459,795,000 for fiscal year 2017;
[(C) $466,691,925 for fiscal year 2018;
[(D) $473,692,304 for fiscal year 2019; and
[(E) $480,797,689 for fiscal year 2020.]
(A) $ 506,302,525 for fiscal year 2022;
(B) $ 509,708,000 for fiscal year 2023;
(C) $ 520,084,000 for fiscal year 2024; and
(D) $ 530,459,000 for fiscal year 2025.

(2) PURPOSES.—The amounts authorized to be appropriated by this subsection shall be used—

(A) to administer the provisions of law to be funded from appropriations for the Federal-aid highway program and programs authorized under chapter 2;

(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

[(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT.—The Secretary shall distribute the amount of the base apportionment apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the surface transportation block grant program, the highway safety improvement program, the congestion mitigation and air quality

improvement program, the national highway freight program, and to carry out section 134 as follows:

[(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 63.7 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

[(2) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—For the surface transportation block grant program, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

[(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

[(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, an amount determined by multiplying the amount of the base apportionment remaining for the State under subsection (c) after making the set aside in accordance with paragraph (5) by the proportion that—

[(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009; bears to

[(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

[(5) NATIONAL HIGHWAY FREIGHT PROGRAM.—

[(A) IN GENERAL.—For the national highway freight program under section 167, the Secretary shall set aside from the base apportionment determined for a State under subsection (c) an amount determined for the State under subparagraphs (B) and (C).

[(B) TOTAL AMOUNT.—The total amount set aside for the national highway freight program for all States shall be—

[(i) $1,150,000,000 for fiscal year 2016;

[(ii) $1,100,000,000 for fiscal year 2017;

[(iii) $1,200,000,000 for fiscal year 2018;

[(iv) $1,350,000,000 for fiscal year 2019; and

[(v) $1,500,000,000 for fiscal year 2020.

[(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the total set-aside amount for the national highway freight program under subparagraph (B) so that each State receives the amount equal to the proportion that—

[(i) the total base apportionment determined for the State under subsection (c); bears to

[(ii) the total base apportionments for all States under subsection (c).

[(D) METROPOLITAN PLANNING.—Of the amount set aside under this paragraph for a State, the Secretary shall

use to carry out section 134 an amount determined by multiplying the set-aside amount by the proportion that—

[(i) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

[(ii) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141; 126 Stat. 405).

[(6) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount of the base apportionment remaining for a State under subsection (c) after making the set aside in accordance with paragraph (5) by the proportion that—

[(A) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

[(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

[(c) CALCULATION OF AMOUNTS.—

[(1) STATE SHARE.—For each of fiscal years 2016 through 2020, the amount for each State shall be determined as follows:

[(A) INITIAL AMOUNTS.—The initial amounts for each State shall be determined by multiplying—

[(i) each of—

[(I) the base apportionment;

[(II) supplemental funds reserved under subsection (h)(1) for the national highway performance program; and

[(III) supplemental funds reserved under subsection (h)(2) for the surface transportation block grant program; by

[(ii) the share for each State, which shall be equal to the proportion that—

[(I) the amount of apportionments that the State received for fiscal year 2015; bears to

[(II) the amount of those apportionments received by all States for that fiscal year.

[(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

[(2) STATE APPORTIONMENT.—On October 1 of fiscal years 2016 through 2020, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the national

highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, and to carry out section 134 in accordance with paragraph (1).]

(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF APPORTIONMENT.—The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the covered programs as follows:

(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 55.09 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program, 28.43 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 6.19 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount for the congestion mitigation and air quality improvement program for all States shall be—

(i) $2,913,925,833 for fiscal year 2022;

(ii) $2,964,919,535 for fiscal year 2023;

(iii) $3,024,217,926 for fiscal year 2024; and

(iv) $3,078,653,849 for fiscal year 2025.

(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the amount for the congestion mitigation and air quality improvement program under subparagraph (B) so that each State receives an amount equal to the proportion that—

(i) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2020; bears to

(ii) the total amount of funds apportioned to all States for such program for fiscal year 2020.

(5) NATIONAL HIGHWAY FREIGHT PROGRAM.—For the national highway freight program, 3.38 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(6) METROPOLITAN PLANNING.—

(A) IN GENERAL.—For metropolitan planning, an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount for metropolitan planning for all States shall be—

(i) $507,500,000 for fiscal year 2022;

(ii) $516,381,250 for fiscal year 2023;

(iii) $526,708,875 for fiscal year 2024; and

(iv) $536,189,635 for fiscal year 2025.

(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the amount for metropolitan planning under subparagraph (B) so that each State receives an amount equal to the proportion that—

(i) the amount apportioned to the State for metropolitan planning for fiscal year 2020; bears to

(ii) the total amount of funds apportioned to all States for metropolitan planning for fiscal year 2020.

(7) RAILWAY CROSSINGS.—

(A) IN GENERAL.—For the railway crossings program, an amount determined for the State under subparagraphs (B) and (C).

(B) TOTAL AMOUNT.—The total amount for the railway crossings program for all States shall be $245,000,000 for each of fiscal years 2022 through 2025.

(C) STATE SHARE.—

(i) IN GENERAL.—For each fiscal year, the Secretary shall distribute among the States the amount for the railway crossings program under subparagraph (B) as follows:

(I) 50 percent of the amount for a fiscal year shall be apportioned to States by the formula set forth in section 104(b)(3)(A) (as in effect on the day before the date of enactment of MAP–21).

(II) 50 percent of the amount for a fiscal year shall be apportioned to States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(ii) MINIMUM APPORTIONMENT.—Notwithstanding clause (i), for each fiscal year, each State shall receive a minimum of one-half of 1 percent of the total amount for the railway crossings program for such fiscal year under subparagraph (B).

(8) PREDISASTER MITIGATION PROGRAM.—For the predisaster mitigation program, 2.96 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(9) CARBON POLLUTION REDUCTION PROGRAM.—For the carbon pollution reduction program, 3.95 percent of the amount remaining after distributing amounts under paragraphs (4), (6), and (7).

(c) CALCULATION OF AMOUNTS.—

(1) STATE SHARE.—For each of fiscal years 2022 through 2025, the amount for each State shall be determined as follows:

(A) INITIAL AMOUNTS.—The initial amounts for each State shall be determined by multiplying—

(i) the combined amount authorized for appropriation for the fiscal year for the covered programs; by

(ii) the share for each State, which shall be equal to the proportion that—

(I) the amount of apportionments that the State received for fiscal year 2020; bears to

(II) the amount of those apportionments received by all States for fiscal year 2020.

(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

(2) STATE APPORTIONMENT.—On October 1 of fiscal years 2022 through 2025, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the covered programs in accordance with paragraph (1).

(d) METROPOLITAN PLANNING.—

(1) USE OF AMOUNTS.—

(A) USE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under ⌊paragraphs (5)(D) and (6) of subsection (b)⌋ *subsection (b)(6)* shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under ⌊paragraphs (5)(D) and (6) of subsection (b)⌋ *subsection (b)(6)* to fund transportation planning outside of urbanized areas.

(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

(A) IN GENERAL.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

(i) is developed by each State and approved by the Secretary; and

(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

(e) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall—

(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to the State under this section for the fiscal year; and

(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a written statement of the reason for not making the apportionment in a timely manner.

(3) APPORTIONMENT CALCULATIONS.—

(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

(B) PROHIBITION ON USE OF FUNDS TO HIRE CONTRACTORS.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of amounts to a State under this section.

(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section.

[(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

[(1) COMPILATION OF DATA.—Not later than 180 days after the date of enactment of the FAST Act, the Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

[(2) REQUIREMENTS.—The Secretary shall ensure that the reports required under this subsection are made available in a user-friendly manner on the public Internet website of the Department of Transportation and can be searched and downloaded by users of the website.

[(3) CONTENTS OF REPORTS.—

[(A) APPORTIONED AND ALLOCATED PROGRAMS.—On a semiannual basis, the Secretary shall make available a report on funding apportioned and allocated to the States under this title that describes—

[(i) the amount of funding obligated by each State, year-to-date, for the current fiscal year;

[(ii) the amount of funds remaining available for obligation by each State;

[(iii) changes in the obligated, unexpended balance for each State, year-to-date, during the current fiscal year, including the obligated, unexpended balance at the end of the preceding fiscal year and current fiscal year expenditures;

[(iv) the amount and program category of unobligated funding, year-to-date, available for expenditure at the discretion of the Secretary;

[(v) the rates of obligation on and off the National Highway System, year-to-date, for the current fiscal year of funds apportioned, allocated, or set aside under this section, according to—

[(I) program;

[(II) funding category or subcategory;

[(III) type of improvement;

[(IV) State; and

[(V) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area; and

[(vi) the amount of funds transferred by each State, year-to-date, for the current fiscal year between programs under section 126.

[(B) PROJECT DATA.—On an annual basis, the Secretary shall make available a report that provides, for any project funded under this title (excluding projects for which funds are transferred to agencies other than the Federal Highway Administration) with an estimated total cost as of the start of construction greater than $25,000,000, and to the maximum extent practicable, other projects funded under this title, project data describing—

[(i) the specific location of the project;

[(ii) the total cost of the project;

[(iii) the amount of Federal funding obligated for the project;

[(iv) the program or programs from which Federal funds have been obligated for the project;

[(v) the type of improvement being made, such as categorizing the project as—

[(I) a road reconstruction project;

[(II) a new road construction project;

[(III) a new bridge construction project;

[(IV) a bridge rehabilitation project; or

[(V) a bridge replacement project;

[(vi) the ownership of the highway or bridge;

[(vii) whether the project is located in an area of the State with a population of—

[(I) less than 5,000 individuals;

[(II) 5,000 or more individuals but less than 50,000 individuals;

[(III) 50,000 or more individuals but less than 200,000 individuals; or

[(IV) 200,000 or more individuals; and

[(viii) available information on the estimated cost of the project as of the start of project construction, or the revised cost estimate based on a description of revisions to the scope of work or other factors affecting project cost other than cost overruns.

[(h) SUPPLEMENTAL FUNDS.—

[(1) SUPPLEMENTAL FUNDS FOR NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

[(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the national highway performance program under section 119 for that fiscal year an amount equal to—

[(i) $53,596,122 for fiscal year 2019; and

[(ii) $66,717,816 for fiscal year 2020.

[(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(1), and shall be in addition to amounts apportioned under that subsection.

[(2) SUPPLEMENTAL FUNDS FOR SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—

[(A) AMOUNT.—Before making an apportionment for a fiscal year under subsection (c), the Secretary shall reserve for the surface transportation block grant program under section 133 for that fiscal year an amount equal to—

[(i) $835,000,000 for each of fiscal years 2016 and 2017 pursuant to section 133(h), plus—

[(I) $55,426,310 for fiscal year 2016; and

[(II) $89,289,904 for fiscal year 2017; and

[(ii) $850,000,000 for each of fiscal years 2018 through 2020 pursuant to section 133(h), plus—

[(I) $118,013,536 for fiscal year 2018;

[(II) $130,688,367 for fiscal year 2019; and

[(III) $170,053,448 for fiscal year 2020.

[(B) TREATMENT OF FUNDS.—Funds reserved under subparagraph (A) and apportioned to a State under subsection (c) shall be treated as if apportioned under subsection (b)(2), and shall be in addition to amounts apportioned under that subsection.

[(i) BASE APPORTIONMENT DEFINED.—In this section, the term "base apportionment" means—

[(1) the combined amount authorized for appropriation for the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, and to carry out section 134; minus

[(2) supplemental funds reserved under subsection (h) for the national highway performance program and the surface transportation block grant program.]

(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

(B) USER FRIENDLY DATA.—The data compiled under subparagraph (A) shall be in a user friendly format that can be searched, downloaded, disaggregated, and filtered by data category.

(2) PROJECT DATA.—

(A) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Secretary shall make available on the website of the Department of Transportation a report that describes—

(i) the location of each active project within each State during such fiscal year, including in which congressional district or districts such project is located;

(ii) the total cost of such project;

(iii) the amount of Federal funding obligated for such project;

(iv) the program or programs from which Federal funds have been obligated for such project;

(v) whether such project is located in an area of the State with a population of—

(I) less than 5,000 individuals;

(II) 5,000 or more individuals but less than 50,000 individuals;

(III) 50,000 or more individuals but less than 200,000 individuals; or

(IV) 200,000 or more individuals;

(vi) whether such project is located in an area of persistent poverty, as defined in section 172(l);

(vii) the type of improvement being made by such project, including categorizing such project as—

(I) a road reconstruction project;

(II) a new road construction project;

(III) a new bridge construction project;

(IV) a bridge rehabilitation project; or

(V) a bridge replacement project; and

(viii) the functional classification of the roadway on which such project is located.

(B) INTERACTIVE MAP.—In addition to the data made available under subparagraph (A), the Secretary shall make available on the website of the Department of Transportation an interactive map that displays, for each active project, the information described in clauses (i) through (v) of subparagraph (A).

(3) STATE DATA.—

(A) APPORTIONED AND ALLOCATED PROGRAMS.—The website described in paragraph (2)(A) shall be updated annually to display the Federal-aid highway funds apportioned and allocated to each State under this title, including—

(i) the amount of funding available for obligation by the State, including prior unobligated balances, at the start of the fiscal year;

(ii) the amount of funding obligated by the State during such fiscal year;

(iii) the amount of funding remaining available for obligation by the State at the end of such fiscal year; and

(iv) changes in the obligated, unexpended balance for the State.

(B) PROGRAMMATIC DATA.—The data described in subparagraph (A) shall include—

(i) the amount of funding by each apportioned and allocated program for which the State received funding under this title;

(ii) the amount of funding transferred between programs by the State during the fiscal year using the authority provided under section 126; and

(iii) the amount and program category of Federal funds exchanged as described in section 106(g)(6).

(4) DEFINITIONS.—In this subsection:

(A) ACTIVE PROJECT.—

(i) IN GENERAL.—The term "active project" means a Federal-aid highway project using funds made available under this title on which those funds were obligated or expended during the fiscal year for which the estimated total cost as of the start of construction is greater than $5,000,000.

(ii) EXCLUSION.—The term "active project" does not include any project for which funds are transferred to agencies other than the Federal Highway Administration.

(B) INTERACTIVE MAP.—The term "interactive map" means a map displayed on the public website of the Department of Transportation that allows a user to select and view information for each active project, State, and congressional district.

(C) STATE.—The term "State" means any of the 50 States or the District of Columbia.

(h) DEFINITION OF COVERED PROGRAMS.—In this section, the term "covered programs" means—

(1) the national highway performance program under section 119;

(2) the surface transportation program under section 133;

(3) the highway safety improvement program under section 148;

(4) the congestion mitigation and air quality improvement program under section 149;

(5) the national highway freight program under section 167;

(6) metropolitan planning under section 134;

(7) the railway crossings program under section 130;

(8) the predisaster mitigation program under section 124; and

(9) the carbon pollution reduction program under section 171.

§ 105. Additional deposits into Highway Trust Fund

(a) IN GENERAL.—If monies are deposited into the Highway Account or Mass Transit Account pursuant to a law enacted subsequent to the date of enactment of the [FAST Act] *INVEST in America Act*, the Secretary shall make available additional amounts of contract authority under subsections (b) and (c).

(b) AMOUNT OF ADJUSTMENT.—If monies are deposited into the Highway Account or the Mass Transit Account as described in subsection (a), on October 1 of the fiscal year following the deposit of such monies, the Secretary shall—

(1) make available for programs authorized from such account for such fiscal year a total amount equal to—

(A) the amount otherwise authorized to be appropriated for such programs for such fiscal year; plus

(B) an amount equal to such monies deposited into such account during the previous fiscal year as described in subsection (a); and

(2) distribute the additional amount under paragraph (1)(B) to each of such programs in accordance with subsection (c).

(c) DISTRIBUTION OF ADJUSTMENT AMONG PROGRAMS.—

(1) IN GENERAL.—In making an adjustment for programs authorized to be appropriated from the Highway Account or the Mass Transit Account for a fiscal year under subsection (b), the Secretary shall—

(A) determine the ratio that—

(i) the amount authorized [to be appropriated] for a program from the account for the fiscal year; bears to

(ii) the total amount authorized [to be appropriated] for such fiscal year for all programs under such account;

(B) multiply the ratio determined under subparagraph (A) by the amount of the adjustment determined under subsection (b)(1)(B); and

(C) adjust the amount that the Secretary would otherwise have allocated for the program for such fiscal year by the amount calculated under subparagraph (B).

(2) FORMULA PROGRAMS.—For a program for which funds are distributed by formula, the Secretary shall add the adjustment to the amount authorized for the program but for this section and make available the adjusted program amount for such program in accordance with such formula.

(3) AVAILABILITY FOR OBLIGATION.—Adjusted amounts under this subsection shall be available for obligation and administered in the same manner as other amounts made available for the program for which the amount is adjusted.

(4) SPECIAL RULE.—

(A) ADJUSTMENT.—In making an adjustment under paragraph (1) for an allocation, reservation, or set-aside from an amount authorized from the Highway Account or Mass Transit Account described in subparagraph (B), the Secretary shall—

(i) determine the ratio that—

(I) the amount authorized to be appropriated for the allocation, reservation, or set-aside from the account for the fiscal year; bears to

(II) the total amount authorized to be appropriated for such fiscal year for all programs under such account;

(ii) multiply the ratio determined under clause (i) by the amount of the adjustment determined under subsection (b)(1)(B); and

(iii) adjust the amount that the Secretary would have allocated for the allocation, reservation, or set-aside for such fiscal year but for this section by the amount calculated under clause (ii).

(B) ALLOCATIONS, RESERVATIONS, AND SET-ASIDES.—The allocations, reservations, and set-asides described in this subparagraph are—

(i) from the amount made available for a fiscal year for the Federal lands transportation program under section 203, the amounts allocated for a fiscal year for the National Park Service, the United States Fish and Wildlife Service, and the United States Forest Service;

(ii) the amount made available for the Puerto Rico highway program under section 165(a)(1); and

(iii) the amount made available for the territorial highway program under section 165(a)(2).

(d) EXCLUSION OF EMERGENCY RELIEF PROGRAM AND COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude the emergency relief program under section 125 and covered administrative expenses from an adjustment of funding under subsection (c)(1).

(e) AUTHORIZATION OF APPROPRIATIONS.—**[**There is authorized**]** *For fiscal year 2022 and each fiscal year thereafter, there is authorized* to be appropriated from the appropriate account or accounts of the Highway Trust Fund an amount equal to the amount of an adjustment for a fiscal year under subsection (b) **[**for any of fiscal years 2017 through 2020**]**.

(f) REVISION TO OBLIGATION LIMITATIONS.—

(1) IN GENERAL.—If the Secretary makes an adjustment under subsection (b) for a fiscal year to an amount subject to a limitation on obligations imposed by **[**section 1102 or 3018 of the FAST Act**]** *any other provision of law*—

(A) such limitation on obligations for such fiscal year shall be revised by an amount equal to such adjustment; and

(B) the Secretary shall distribute such limitation on obligations, as revised under subparagraph (A), in accordance with such sections.

(2) EXCLUSION OF COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude covered administrative expenses from—

(A) any calculation relating to a revision of a limitation on obligations under paragraph (1)(A); and

(B) any distribution of a revised limitation on obligations under paragraph (1)(B).

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

(1) COVERED ADMINISTRATIVE EXPENSES.—The term "covered administrative expenses" means the administrative expenses of—

(A) the Federal Highway Administration, as authorized under section 104(a);

(B) the National Highway Traffic Safety Administration, as authorized under section 4001(a)(6) of the FAST Act; and

(C) the Federal Motor Carrier Safety Administration, as authorized under section 31110 of title 49.

(2) HIGHWAY ACCOUNT.—The term "Highway Account" means the portion of the Highway Trust Fund that is not the Mass Transit Account.

(3) MASS TRANSIT ACCOUNT.—The term "Mass Transit Account" means the Mass Transit Account of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.

§ 106. Project approval and oversight

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department recipient formalizing the conditions of the project approval.

(3) CONTRACTUAL OBLIGATION.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

(4) GUIDANCE.—In taking action under this subsection, the Secretary shall be guided by section 109.

(b) PROJECT AGREEMENT.—

(1) PROVISION OF STATE FUNDS.—The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project (including payments made pursuant to a long-term concession agreement, such as availability payments) and to pay for maintenance of the project after completion of construction.

(2) REPRESENTATIONS OF STATE.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

(1) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate.

(2) NON-NHS PROJECTS.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

(3) AGREEMENT.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

(4) LIMITATION ON INTERSTATE PROJECTS.—

(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.

(d) RESPONSIBILITIES OF THE SECRETARY.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

(1) section 113 or 114; or

(2) any Federal law other than this title (including section 5333 of title 49).

(e) VALUE ENGINEERING ANALYSIS.—

(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

(A) IN GENERAL.—In this subsection, the term "value engineering analysis" means a systematic process of re-

view and analysis of a project, during the planning and design phases, by a multidisciplinary team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

(i) providing the needed functions safely, reliably, and at the lowest overall lifecycle cost;

(ii) improving the value and quality of the project; and

(iii) reducing the time to complete the project.

(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(2) ANALYSIS.—The State shall provide a value engineering analysis for—

(A) each project on the National Highway System receiving Federal assistance with an estimated total cost of $50,000,000 or more;

(B) a bridge project on the National Highway System receiving Federal assistance with an estimated total cost of $40,000,000 or more; and

(C) any other project the Secretary determines to be appropriate.

(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

(4) REQUIREMENTS.—

(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

(i) establishes and documents value engineering program policies and procedures;

(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

(i) include bridge superstructure and substructure requirements based on construction material; and

(ii) be evaluated by the State—

(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

(II) using an analysis of lifecycle costs and duration of project construction.

(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection shall not apply to a project delivered using the design-build method of construction.

(f) LIFE-CYCLE COST ANALYSIS.—

(1) USE OF LIFE-CYCLE COST ANALYSIS.—The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

(2) LIFE-CYCLE COST ANALYSIS DEFINED.—In this subsection, the term "life-cycle cost analysis" means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(g) OVERSIGHT PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

(B) MINIMUM REQUIREMENT.—At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.

(2) FINANCIAL INTEGRITY.—

(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.

(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include one or more activities that are involved in the life cycle of a project from conception to completion of the project.

(4) RESPONSIBILITY OF THE STATES.—

(A) IN GENERAL.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—

(i) adequate project delivery systems for projects approved under this section; and

(ii) sufficient accounting controls to properly manage such Federal funds.

[(B) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the States.]

(B) ASSISTANCE TO STATES.—The Secretary shall—

(i) develop criteria for States to use to make the determination required under subparagraph (A); and

(ii) provide training, guidance, and other assistance to States and subrecipients as needed to ensure that projects administered by subrecipients comply with the requirements of this title.

(C) PERIODIC REVIEW.—The Secretary shall review, not less frequently than every 2 years, the monitoring of subrecipients by the States.

(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—

(A) EFFECT OF SECTION.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

(B) APPALACHIAN DEVELOPMENT HIGHWAYS.—The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

(6) FEDERAL FUNDING EXCHANGE PROGRAMS.—A State may implement a program under which a subrecipient has the option to exchange Federal funds allocated to such subrecipient in accordance with the requirements of this title for State or local funds if the State certifies to the Secretary that the State has prevailing wage and domestic content requirements that are comparable to the requirements under sections 113 and 313 and that such requirements shall apply to projects carried out using such funds if such projects would have been subject to the requirements of sections 113 and 313 if such projects were carried out using Federal funds.

(h) MAJOR PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

(A) a project management plan; and

(B) an annual financial plan, including a phasing plan when applicable.

(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

(B) the role of the agency leadership and management team in the delivery of the project.

(3) FINANCIAL PLAN.—A financial plan—

(A) shall be based on detailed estimates of the cost to complete the project;

(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions[, as determined by the Secretary,] of future increases in the cost to complete the project;

(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; and

(D) [shall assess] *in the case of a project proposed to be advanced as a public-private partnership, shall include a detailed value for money analysis or comparable analysis to determine* the appropriateness of a public-private partnership to deliver the project.

(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.

(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

(1) DEFINITION OF ADVANCED MODELING TECHNOLOGY.—In this subsection, the term "advanced modeling technology" means an available or developing technology, including 3-dimensional digital modeling, that can—

(A) accelerate and improve the environmental review process;

(B) increase effective public participation;

(C) enhance the detail and accuracy of project designs;

(D) increase safety;

(E) accelerate construction, and reduce construction costs; or

(F) otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

(2) PROGRAM.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes of the projects.

(3) ACTIVITIES.—In carrying out paragraph (2), the Secretary shall—

(A) compile information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

(B) disseminate to States information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies; and

(C) promote the use of advanced modeling technologies.

(4) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the public website of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (2).

(k) MEGAPROJECTS.—

(1) COMPREHENSIVE RISK MANAGEMENT PLAN.—To be authorized for the construction of a megaproject, the recipient of Federal financial assistance under this title for such megaproject shall submit to the Secretary a comprehensive risk management plan that contains—

(A) a description of the process by which the recipient will identify, quantify, and monitor the risks, including natural hazards, that might result in cost overruns, project delays, reduced construction quality, or reductions in benefits with respect to the megaproject;

(B) examples of mechanisms the recipient will use to track risks identified pursuant to subparagraph (A);

(C) a plan to control such risks; and

(D) such assurances as the Secretary determines appropriate that the recipient shall, with respect to the megaproject—

(i) regularly submit to the Secretary updated cost estimates; and

(ii) maintain and regularly reassess financial reserves for addressing known and unknown risks.

(2) PEER REVIEW GROUP.—

(A) IN GENERAL.—Not later than 90 days after the date on which a megaproject is authorized for construction, the recipient of Federal financial assistance under this title for such megaproject shall establish a peer review group for such megaproject that consists of at least 5 individuals (including at least 1 individual with project management experience) to give expert advice on the scientific, technical, and project management aspects of the megaproject.

(B) MEMBERSHIP.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish guidelines describing how a recipient described in subparagraph (A) shall—

(I) recruit and select members for a peer review group established under such subparagraph; and

(II) make publicly available the criteria for such selection and identify the members so selected.

(ii) CONFLICT OF INTEREST.—No member of a peer review group for a megaproject may have a direct or indirect financial interest in such megaproject.

(C) TASKS.—A peer review group established under subparagraph (A) by a recipient of Federal financial assistance for a megaproject shall—

(i) meet annually until completion of the megaproject;

(ii) not later than 90 days after the date of the establishment of the peer review group and not later than 90 days after the date of any significant change, as determined by the Secretary, to the scope, schedule, or budget of the megaproject, review the scope, schedule, and budget of the megaproject, including planning, engineering, financing, and any other elements determined appropriate by the Secretary; and

(iii) submit to the Secretary, Congress, and such recipient a report on the findings of each review under clause (ii).

(3) TRANSPARENCY.—Not later than 90 days after the submission of a report under paragraph (2)(C)(iii), the Secretary shall publish on the website of the Department of Transportation such report.

(4) MEGAPROJECT DEFINED.—In this subsection, the term "megaproject" means a project under this title that has an estimated total cost of $2,000,000,000 or more, and such other projects as may be identified by the Secretary.

(l) SPECIAL EXPERIMENTAL PROJECTS.—

(1) PUBLIC AVAILABILITY.—The Secretary shall publish on the website of the Department of Transportation a copy of all letters of interest, proposals, workplans, and reports related to the special experimental project authority pursuant to section 502(b). The Secretary shall redact confidential business information, as necessary, from any such information published.

(2) NOTIFICATION AND OPPORTUNITY FOR COMMENT.—Not later than 30 days before making a determination to proceed with an experiment under a letter of interest described in paragraph (1), the Secretary shall provide notification and an opportunity for public comment on the letter of interest and the Secretary's proposed response.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the INVEST in America Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes—

(A) a summary of each experiment described in this subsection carried out over the previous 5 years; and

(B) legislative recommendations, if any, based on the findings of such experiments.

(m) COMPETITIVE GRANT PROGRAM OVERSIGHT AND ACCOUNTABILITY.—

(1) IN GENERAL.—To ensure the accountability and oversight of the discretionary grant selection process administered by the Secretary, a covered program shall be subject to the requirements of this section, in addition to the requirements applicable to each covered program.

(2) APPLICATION PROCESS.—The Secretary shall—

(A) develop a template for applicants to use to summarize—

(i) project needs and benefits; and

(ii) any factors, requirements, or considerations established for the applicable covered program;

(B) create a data driven process to evaluate, as set forth in the covered program, each eligible project for which an application is received; and

(C) make a determination, based on the evaluation made pursuant to subparagraph (B), on any ratings, rankings, scores, or similar metrics for applications made to the covered program.

(3) NOTIFICATION OF CONGRESS.—Not less than 15 days before making a grant for a covered program, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on the Environment and Public Works of the Senate of—

(A) the amount for each project proposed to be selected;

(B) a description of the review process;

(C) for each application, the determination made under paragraph (2)(C); and

(D) a detailed explanation of the basis for each award proposed to be selected.

(4) NOTIFICATION OF APPLICANTS.—Not later than 30 days after making a grant for a project under a covered program, the Secretary shall send to all applicants under such covered program, and publish on the website of the Department of Transportation—

(A) a summary of each application made to the covered program for the given round of funding; and

(B) the evaluation and justification for the project selection, including all ratings, rankings, scores, or similar metrics for applications made to the covered program for the given round of funding during each phase of the grant selection process.

(5) BRIEFING.—The Secretary shall provide, at the request of a grant applicant of a covered program, the opportunity to receive a briefing to explain any reasons the grant applicant was not awarded a grant.

(6) TEMPLATE.—The Secretary shall, to the extent practicable, develop a template as described in paragraph (2)(A) for any discretionary program administered by the Secretary that is not a covered program.

(7) COVERED PROGRAM DEFINED.—The term "covered program" means each of the following discretionary grant programs:

(A) Community climate innovation grants under section 172.

(B) Electric vehicle charging and hydrogen fueling infrastructure grants under section 151(f).

(C) Federal lands and tribal major projects grants under section 208.

(D) Safe, efficient mobility through advanced technologies grants under section 503(c)(4).

§ 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including sections 3114 to 3116 and 3118 of title 40), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with ⟦subsection (c) of⟧ section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or

shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State transportation department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State transportation department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

§ 108. Advance acquisition of real property

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property interests for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property interests, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property interests shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(b) Federal participation in the cost of real property interests acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c) STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42

U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.

(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of—

(A) costs incurred by the State for acquisition of real property interests, acquired in advance of any Federal approval or authorization, if the real property interests are subsequently incorporated into a project eligible for surface transportation [block grant] program funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the real property interests acquired are incorporated into a project eligible for surface transportation [block grant] program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

(E) the alternative for which the real property interest is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the real property interest was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 303 of title 49, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

(G) before the time that the cost incurred by a State is approved for Federal participation, the Secretary has determined that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to

the need to construct the project, or the selection of the project design or location.

(d) FEDERALLY FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

(1) DEFINITION OF ACQUISITION OF A REAL PROPERTY INTEREST.—In this subsection, the term "acquisition of a real property interest" includes the acquisition of—

(A) any interest in land;

(B) a contractual right to acquire any interest in land; or

(C) any other similar action to acquire or preserve rights-of-way for a transportation facility.

(2) AUTHORIZATION.—The Secretary may authorize the use of funds apportioned to a State under this title for the acquisition of a real property interest by a State.

(3) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing, with concurrence by the Secretary, that—

(A) the State has authority to acquire the real property interest under State law; and

(B) the acquisition of the real property interest—

(i) is for a transportation purpose;

(ii) will not cause any significant adverse environmental impact;

(iii) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

(iv) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

(v) is consistent with the State transportation planning process under section 135;

(vi) complies with other applicable Federal laws (including regulations);

(vii) will be acquired through negotiation, without the threat of condemnation; and

(viii) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) ENVIRONMENTAL COMPLIANCE.—

(A) IN GENERAL.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the acquisition of the real property interest.

(B) INDEPENDENT UTILITY.—The acquisition of a real property interest—

(i) shall be treated as having independent utility for purposes of the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) shall not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

(5) PROGRAMMING.—

(A) IN GENERAL.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 134 and 135 and sections 5303 and 5304 of title 49.

(B) ACQUISITION PROJECT.—The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

(6) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

(7) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

(8) OTHER REQUIREMENTS AND CONDITIONS.—

(A) APPLICABLE LAW.—The acquisition of a real property interest shall be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally funded transportation projects.

(B) ADDITIONAL CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions under this subsection as the Secretary determines to be appropriate.

§ 109. Standards

(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

(1) adequately serve the existing and **[**planned future traffic of the highway in a manner that is conducive to**]** *future operational performance of the facility in a manner that enhances* safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality*, taking into consideration context sensitive design principles*.

(b) **[**The geometric**]** *DESIGN CRITERIA FOR THE INTERSTATE SYSTEM.—The geometric* and construction standards to be adopted for the Interstate System shall be those approved by the Secretary

in cooperation with the State transportation departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate [the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project] *the existing and future operational performance of the facility*. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall consider, in addition to the criteria described in subsection (a)—

(A) the constructed and natural environment of the area;

(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity;

(C) cost savings by utilizing flexibility that exists in current design guidance and regulations[; and]*;*

(D) access for other modes of transportation[.]*; and*

(E) context sensitive design principles.

(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State transportation departments, may develop criteria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider—

(A) the results of the committee process of the American Association of State Highway and Transportation Officials as used in adopting and publishing "A Policy on Geometric Design of Highways and Streets", including comments submitted by interested parties as part of such process;

(B) the publication entitled "Flexibility in Highway Design" of the Federal Highway Administration;

(C) "Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design" developed by the conference held during 1998 entitled "Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance";

(D) the publication entitled "Highway Safety Manual" of the American Association of State Highway and Transportation Officials;

(E) the publication entitled "Urban Street Design Guide" of the National Association of City Transportation Officials; and

(F) any other material that the Secretary determines to be appropriate.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State transportation department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) INSTALLATION OF SAFETY DEVICES.—

(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, pedestrian walkways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) Not later than January 30, 1971, the Secretary shall issue guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public

services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for—

(1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a

contiguous State without first taking into full consideration the views of that State.

(l)(1) In determining whether any right-of-way on any Federal-aid highway should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.

(n) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

[(o) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.**]**

(o) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—

(1) IN GENERAL.—Projects (other than highway projects on the National Highway System) shall—

(A) be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safe-

ty standards, design standards, and construction standards; and

(B) take into consideration context sensitive design principles.

(2) DESIGN FLEXIBILITY.—

(A) IN GENERAL.—A local jurisdiction may deviate from the roadway design publication used by the State in which the local jurisdiction is located for the design of a project on a roadway (other than a highway on the National Highway System) if—

(i) the deviation is approved by the Secretary; and

(ii) the design complies with all other applicable Federal laws.

(B) STATE-OWNED ROADS.—In the case of a roadway under the ownership of the State, the local jurisdiction may only deviate from the roadway design publication used by the State with the concurrence of the State.

(C) PROGRAMMATIC BASIS.—The Secretary may approve a deviation under this paragraph on a project, multiple project, or programmatic basis.

(p) SCENIC AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

(3) comply with subsection (a).

(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with a statewide transportation improvement program approved by the Secretary.

(r) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.

(s) CONTEXT SENSITIVE DESIGN.—

(1) CONTEXT SENSITIVE DESIGN PRINCIPLES.—The Secretary shall collaborate with the American Association of State Highway Transportation Officials to ensure that any roadway design publications approved by the Secretary under this section provide adequate flexibility for a project sponsor to select the appropriate design of a roadway, consistent with context sensitive design principles.

(2) POLICIES OR PROCEDURES.—

(A) IN GENERAL.—Not later than 1 year after the Secretary publishes the final guidance described in paragraph (3), each State shall adopt policies or procedures to evaluate the context of a proposed roadway and select the appropriate design, consistent with context sensitive design principles.

(B) LOCAL GOVERNMENTS.—The Secretary and States shall encourage local governments to adopt policies or procedures described under subparagraph (A).

(C) CONSIDERATIONS.—The policies or procedures developed under this paragraph shall take into consideration the guidance developed by the Secretary under paragraph (3).

(3) GUIDANCE.—

(A) IN GENERAL.—

(i) NOTICE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish guidance on the official website of the Department of Transportation on context sensitive design.

(ii) PUBLIC REVIEW AND COMMENT.—The guidance described in this paragraph shall be finalized following an opportunity for public review and comment.

(iii) UPDATE.—The Secretary shall periodically update the guidance described in this paragraph, including the model policies or procedures described under subparagraph (B)(v).

(B) REQUIREMENTS.—The guidance described in this paragraph shall—

(i) provide best practices for States, metropolitan planning organizations, regional transportation planning organizations, local governments, or other project sponsors to carry out context sensitive design principles;

(ii) identify opportunities to modify planning, scoping, design, and development procedures to more effectively combine modes of transportation into integrated facilities that meet the needs of each of such modes of transportation in an appropriate balance;

(iii) identify metrics to assess the context of the facility, including surrounding land use or roadside characteristics;

(iv) assess the expected operational and safety performance of alternative approaches to facility design; and

(v) taking into consideration the findings of this guidance, establish model policies or procedures for a State or other project sponsor to evaluate the context of a proposed facility and select the appropriate facility design for the context.

(C) TOPICS OF EMPHASIS.—In publishing the guidance described in this paragraph, the Secretary shall emphasize—

(i) procedures for identifying the needs of users of all ages and abilities of a particular roadway;

(ii) procedures for identifying the types and designs of facilities needed to serve various modes of transportation;

(iii) safety and other benefits provided by carrying out context sensitive design principles;

(iv) common barriers to carrying out context sensitive design principles;

(v) procedures for overcoming the most common barriers to carrying out context sensitive design principles;

(vi) procedures for identifying the costs associated with carrying out context sensitive design principles;

(vii) procedures for maximizing local cooperation in the introduction of context sensitive design principles and carrying out those principles; and

(viii) procedures for assessing and modifying the facilities and operational characteristics of existing roadways to improve consistency with context sensitive design principles.

(4) FUNDING.—Amounts made available under sections 104(b)(6) and 505 of this title may be used for States, local governments, metropolitan planning organizations, or regional transportation planning organizations to adopt policies or procedures to evaluate the context of a proposed roadway and select the appropriate design, consistent with context sensitive design principles.

* * * * * * *

§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

(a) IN GENERAL.—All agreements between the Secretary and the State transportation department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and

exits from, such establishment conform to the standards established for such a highway under this title.

(b) REST AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

(2) LIMITED ACTIVITIES.—The Secretary shall permit limited commercial activities within a rest area under paragraph (1), if the activities are available only to customers using the rest area and are limited to—

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

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

(ii) not legible from the main traveled way;

(B) items designed to promote tourism in the State, limited to books, DVDs, and other media;

(C) tickets for events or attractions in the State of a historical or tourism-related nature;

(D) travel-related information, including maps, travel booklets, and hotel coupon booklets; and

(E) lottery machines, provided that the priority afforded to blind vendors under subsection (c) applies to this subparagraph.

(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.

(c) VENDING MACHINES.—Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State transportation department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the "Randolph-Sheppard Act" (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

(d) MOTORIST CALL BOXES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State may permit the placement of motorist call boxes on rights-of-way of the National Highway System. Such motorist call boxes may include the identification and sponsorship logos of such call boxes.

(2) SPONSORSHIP LOGOS.—

(A) APPROVAL BY STATE AND LOCAL AGENCIES.—All call box installations displaying sponsorship logos under this subsection shall be approved by the highway agencies having jurisdiction of the highway on which they are located.

(B) SIZE ON BOX.—A sponsorship logo may be placed on the call box in a dimension not to exceed the size of the call box or a total dimension in excess of 12 inches by 18 inches.

(C) SIZE ON IDENTIFICATION SIGN.—Sponsorship logos in a dimension not to exceed 12 inches by 30 inches may be displayed on a call box identification sign affixed to the call box post.

(D) SPACING OF SIGNS.—Sponsorship logos affixed to an identification sign on a call box post may be located on the rights-of-way at intervals not more frequently than 1 per every 5 miles.

(E) DISTRIBUTION THROUGHOUT STATE.—Within a State, at least 20 percent of the call boxes displaying sponsorship logos shall be located on highways outside of urbanized areas with a population greater than 50,000.

(3) NONSAFETY HAZARDS.—The call boxes and their location, posts, foundations, and mountings shall be consistent with requirements of the Manual on Uniform Traffic Control Devices or any requirements deemed necessary by the Secretary to assure that the call boxes shall not be a safety hazard to motorists.

(e) JUSTIFICATION REPORTS.—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System (including new or modified freeway-to-crossroad interchanges inside a transportation management area), the Secretary may permit a State transportation department to approve the report.

(f) INTERSTATE SYSTEM RIGHTS-OF WAY.—

(1) IN GENERAL.—Notwithstanding subsections (a) or (b), the Secretary shall permit, consistent with section 155, the charging of electric vehicles on rights-of-way of the Interstate System in—

(A) a rest area; or

(B) a fringe or corridor parking facility, including a park and ride facility.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall permit commercial activities on rights-of-way of the Interstate System, except as necessary for the charging of electric vehicles in accordance with this subsection.

* * * * * * *

[§ 117. Nationally significant freight and highway projects

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—There is established a nationally significant freight and highway projects program to provide financial assistance for projects of national or regional significance.

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

[(A) improve the safety, efficiency, and reliability of the movement of freight and people;

[(B) generate national or regional economic benefits and an increase in the global economic competitiveness of the United States;

[(C) reduce highway congestion and bottlenecks;

[(D) improve connectivity between modes of freight transportation;

[(E) enhance the resiliency of critical highway infrastructure and help protect the environment;

[(F) improve roadways vital to national energy security; and

[(G) address the impact of population growth on the movement of people and freight.

[(b) GRANT AUTHORITY.—

[(1) IN GENERAL.—In carrying out the program established in subsection (a), the Secretary may make grants, on a competitive basis, in accordance with this section.

[(2) GRANT AMOUNT.—Except as otherwise provided, each grant made under this section shall be in an amount that is at least $25,000,000.

[(c) ELIGIBLE APPLICANTS.—

[(1) IN GENERAL.—The Secretary may make a grant under this section to the following:

[(A) A State or a group of States.

[(B) A metropolitan planning organization that serves an urbanized area (as defined by the Bureau of the Census) with a population of more than 200,000 individuals.

[(C) A unit of local government or a group of local governments.

[(D) A political subdivision of a State or local government.

[(E) A special purpose district or public authority with a transportation function, including a port authority.

[(F) A Federal land management agency that applies jointly with a State or group of States.

[(G) A tribal government or a consortium of tribal governments.

[(H) A multistate or multijurisdictional group of entities described in this paragraph.

[(2) APPLICATIONS.—To be eligible for a grant under this section, an entity specified in paragraph (1) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines is appropriate.

[(d) ELIGIBLE PROJECTS.—

[(1) IN GENERAL.—Except as provided in subsection (e), the Secretary may make a grant under this section only for a project that—

[(A) is—

[(i) a highway freight project carried out on the National Highway Freight Network established under section 167;

[(ii) a highway or bridge project carried out on the National Highway System, including—

[(I) a project to add capacity to the Interstate System to improve mobility; or

[(II) a project in a national scenic area;

[(iii) a freight project that is—

[(I) a freight intermodal or freight rail project; or

[(II) within the boundaries of a public or private freight rail, water (including ports), or intermodal facility and that is a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility; or

[(iv) a railway-highway grade crossing or grade separation project; and

[(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

[(i) $100,000,000; or

[(ii) in the case of a project—

[(I) located in 1 State, 30 percent of the amount apportioned under this chapter to the State in the most recently completed fiscal year; or

[(II) located in more than 1 State, 50 percent of the amount apportioned under this chapter to the participating State with the largest apportionment under this chapter in the most recently completed fiscal year.

[(2) LIMITATION.—

[(A) IN GENERAL.—Not more than $500,000,000 of the amounts made available for grants under this section for fiscal years 2016 through 2020, in the aggregate, may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—

[(i) the project will make a significant improvement to freight movements on the National Highway Freight Network; and

[(ii) the Federal share of the project funds only elements of the project that provide public benefits.

[(B) EXCLUSIONS.—The limitation under subparagraph (A)—

[(i) shall not apply to a railway-highway grade crossing or grade separation project; and

[(ii) with respect to a multimodal project, shall apply only to the non-highway portion or portions of the project.

[(e) SMALL PROJECTS.—

[(1) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in sub-

section (d)(1)(A) that do not satisfy the minimum threshold under subsection (d)(1)(B).

[(2) GRANT AMOUNT.—Each grant made under this subsection shall be in an amount that is at least $5,000,000.

[(3) PROJECT SELECTION CONSIDERATIONS.—In addition to other applicable requirements, in making grants under this subsection the Secretary shall consider—

[(A) the cost effectiveness of the proposed project; and

[(B) the effect of the proposed project on mobility in the State and region in which the project is carried out.

[(f) ELIGIBLE PROJECT COSTS.—Grant amounts received for a project under this section may be used for—

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

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

[(g) PROJECT REQUIREMENTS.—The Secretary may select a project described under this section (other than subsection (e)) for funding under this section only if the Secretary determines that—

[(1) the project will generate national or regional economic, mobility, or safety benefits;

[(2) the project will be cost effective;

[(3) the project will contribute to the accomplishment of 1 or more of the national goals described under section 150 of this title;

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

[(5) with respect to related non-Federal financial commitments—

[(A) 1 or more stable and dependable sources of funding and financing are available to construct, maintain, and operate the project; and

[(B) contingency amounts are available to cover unanticipated cost increases;

[(6) the project cannot be easily and efficiently completed without other Federal funding or financial assistance available to the project sponsor; and

[(7) the project is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

[(h) ADDITIONAL CONSIDERATIONS.—In making a grant under this section, the Secretary shall consider—

[(1) utilization of nontraditional financing, innovative design and construction techniques, or innovative technologies;

[(2) utilization of non-Federal contributions; and

[(3) contributions to geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities.

[(i) RURAL AREAS.—

[(1) IN GENERAL.—The Secretary shall reserve not less than 25 percent of the amounts made available for grants under this section, including the amounts made available under subsection (e), each fiscal year to make grants for projects located in rural areas.

[(2) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection will not allow for the amount reserved under paragraph (1) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section.

[(3) RURAL AREA DEFINED.—In this subsection, the term "rural area" means an area that is outside an urbanized area with a population of over 200,000.

[(j) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share of the cost of a project assisted with a grant under this section may not exceed 60 percent.

[(2) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under this section may be used to satisfy the non-Federal share of the cost of a project for which such a grant is made, except that the total Federal assistance provided for a project receiving a grant under this section may not exceed 80 percent of the total project cost.

[(3) FEDERAL LAND MANAGEMENT AGENCIES.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title or title 49 may be used to pay the non-Federal share of the cost of a project carried out under this section by a Federal land management agency, as described under subsection (c)(1)(F).

[(k) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this section shall be treated as if the project is located on a Federal-aid highway.

[(l) TIFIA PROGRAM.—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

[(m) CONGRESSIONAL NOTIFICATION.—

[(1) NOTIFICATION.—

[(A) IN GENERAL.—At least 60 days before making a grant for a project under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed grant. The notification shall include an evaluation and justification for the project and the amount of the proposed grant award.

[(B) MULTIMODAL PROJECTS.—In addition to the notice required under subparagraph (A), the Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate before making a grant for a project described in subsection (d)(1)(A)(iii).

[(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

[(n) REPORTS.—

[(1) ANNUAL REPORT.—The Secretary shall make available on the Web site of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under this section during that fiscal year.

[(2) COMPTROLLER GENERAL.—

[(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.

[(B) REPORT.—Not later than 1 year after the initial awarding of grants under this section, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

[(i) the adequacy and fairness of the process by which each project was selected, if applicable; and

[(ii) the justification and criteria used for the selection of each project, if applicable.]

§ 117. Projects of national and regional significance

(a) ESTABLISHMENT.—The Secretary shall establish a projects of national and regional significance program under which the Secretary may make grants to, and establish multiyear grant agreements with, eligible entities in accordance with this section.

(b) APPLICATIONS.—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application in such form, in such manner, and containing such information as the Secretary may require.

(c) GRANT AMOUNTS AND PROJECT COSTS.—

(1) IN GENERAL.—Each grant made under this section—

(A) shall be in an amount that is at least $25,000,000; and

(B) shall be for a project that has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) in the case of a project—

(I) located in 1 State or territory, 30 percent of the amount apportioned under this chapter to the State or territory in the most recently completed fiscal year; or

(II) located in more than 1 State or territory, 50 percent of the amount apportioned under this chapter to the participating State or territory with the largest apportionment under this chapter in the most recently completed fiscal year.

(2) LARGE PROJECTS.—For a project that has eligible project costs that are reasonably anticipated to equal or exceed $500,000,000, a grant made under this section—

(A) shall be in an amount sufficient to fully fund the project, or in the case of a public transportation project, a minimum operable segment, in combination with other funding sources, including non-Federal financial commitment, identified in the application; and

(B) may be awarded pursuant to the process under subsection (d), as necessary based on the amount of the grant.

(d) MULTIYEAR GRANT AGREEMENTS FOR LARGE PROJECTS.—

(1) IN GENERAL.—A large project that receives a grant under this section may be carried out through a multiyear grant agreement in accordance with this subsection.

(2) REQUIREMENTS.—A multiyear grant agreement for a large project shall—

(A) establish the terms of participation by the Federal Government in the project;

(B) establish the amount of Federal financial assistance for the project;

(C) establish a schedule of anticipated Federal obligations for the project that provides for obligation of the full grant amount by not later than 4 fiscal years after the fiscal year in which the initial amount is provided; and

(D) determine the period of time for completing the project, even if such period extends beyond the period of an authorization.

(3) SPECIAL RULES.—

(A) IN GENERAL.—A multiyear grant agreement under this subsection—

(i) shall obligate an amount of available budget authority specified in law; and

(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(B) CONTINGENT COMMITMENT.—A contingent commitment under this subsection is not an obligation of the Federal Government under section 1501 of title 31.

(C) INTEREST AND OTHER FINANCING COSTS.—

(i) IN GENERAL.—Interest and other financing costs of carrying out a part of the project within a reasonable time shall be considered a cost of carrying out the

project under a multiyear grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing.

(ii) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(4) ADVANCE PAYMENT.—An eligible entity carrying out a large project under a multiyear grant agreement—

(A) may use funds made available to the eligible entity under this title or title 49 for eligible project costs of the large project; and

(B) shall be reimbursed, at the option of the eligible entity, for such expenditures from the amount made available under the multiyear grant agreement for the project in that fiscal year or a subsequent fiscal year.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section only for a project that is a project eligible for assistance under this title or chapter 53 of title 49 and is—

(A) a bridge project carried out on the National Highway System, or that is eligible to be carried out under section 165;

(B) a project to improve person throughput that is—

(i) a highway project carried out on the National Highway System, or that is eligible to be carried out under section 165;

(ii) a public transportation project; or

(iii) a capital project, as such term is defined in section 22906 of title 49, to improve intercity rail passenger transportation; or

(C) a project to improve freight throughput that is—

(i) a highway freight project carried out on the National Highway Freight Network established under section 167 or on the National Highway System;

(ii) a freight intermodal, freight rail, or railway-highway grade crossing or grade separation project; or

(iii) within the boundaries of a public or private freight rail, water (including ports), or intermodal facility and that is a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility.

(2) LIMITATION.—

(A) CERTAIN FREIGHT PROJECTS.—Projects described in clauses (ii) and (iii) of paragraph (1)(C) may receive a grant under this section only if—

(i) the project will make a significant improvement to the movement of freight on the National Highway System; and

(ii) the Federal share of the project funds only elements of the project that provide public benefits.

(B) CERTAIN PROJECTS FOR PERSON THROUGHPUT.—Projects described in clauses (ii) and (iii) of paragraph (1)(B) may receive a grant under this section only if the project will make a significant improvement in mobility on public roads.

(f) ELIGIBLE PROJECT COSTS.—An eligible entity receiving a grant under this section may use such grant for—

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

(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance.

(g) PROJECT REQUIREMENTS.—The Secretary may select a project described under this section for funding under this section only if the Secretary determines that the project—

(1) generates significant regional or national economic, mobility, safety, resilience, or environmental benefits;

(2) is cost effective;

(3) is based on the results of preliminary engineering;

(4) has secured or will secure acceptable levels of non-Federal financial commitments, including—

(A) 1 or more stable and dependable sources of funding and financing to construct, maintain, and operate the project; and

(B) contingency amounts to cover unanticipated cost increases;

(5) cannot be easily and efficiently completed without additional Federal funding or financial assistance available to the project sponsor, beyond existing Federal apportionments; and

(6) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

(h) MERIT CRITERIA AND CONSIDERATIONS.—

(1) MERIT CRITERIA.—In awarding a grant under this section, the Secretary shall evaluate the following merit criteria:

(A) The extent to which the project supports achieving a state of good repair.

(B) The level of benefits the project is expected to generate, including—

(i) the costs avoided by the prevention of closure or reduced use of the asset to be improved by the project;

(ii) reductions in maintenance costs over the life of the asset;

(iii) safety benefits, including the reduction of accidents and related costs;

(iv) improved person or freight throughput, including congestion reduction and reliability improvements;

(v) national and regional economic benefits;

(vi) resilience benefits;

(vii) environmental benefits, including reduction in greenhouse gas emissions and air quality benefits; and

(viii) benefits to all users of the project, including pedestrian, bicycle, nonvehicular, railroad, and public transportation users.

(C) How the benefits compare to the costs of the project.

(D) The average number of people or volume of freight, as applicable, supported by the project, including visitors based on travel and tourism.

(2) ADDITIONAL CONSIDERATIONS.—In awarding a grant under this section, the Secretary shall also consider the following:

(A) Whether the project serves low-income residents of low-income communities, including areas of persistent poverty, while not displacing such residents.

(B) Whether the project uses innovative technologies, innovative design and construction techniques, or pavement materials that demonstrate reductions in greenhouse gas emissions through sequestration or innovative manufacturing processes and, if so, the degree to which such technologies, techniques, or materials are used.

(C) Whether the project improves connectivity between modes of transportation moving people or goods in the Nation or region.

(D) Whether the project provides new or improved connections between at least 2 metropolitan areas with a population of at least 500,000.

(i) PROJECT SELECTION.—

(1) EVALUATION.—To evaluate applications for funding under this section, the Secretary shall—

(A) determine whether a project is eligible for a grant under this section;

(B) evaluate, through a methodology that is discernible and transparent to the public, how each application addresses the merit criteria pursuant to subsection (h);

(C) assign a quality rating for each merit criteria for each application based on the evaluation in subparagraph (B);

(D) ensure that applications receive final consideration by the Secretary to receive an award under this section only on the basis of such quality ratings and that the Secretary gives final consideration only to applications that meet the minimally acceptable level for each of the merit criteria; and

(E) award grants only to projects rated highly under the evaluation and rating process.

(2) CONSIDERATIONS FOR LARGE PROJECTS.—In awarding a grant for a large project, the Secretary shall—

(A) consider the amount of funds available in future fiscal years for the program under this section; and

(B) assume the availability of funds in future fiscal years for the program that extend beyond the period of authorization based on the amount made available for the

program in the last fiscal year of the period of authorization.

(3) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure geographic diversity and a balance between rural and urban communities among grant recipients over fiscal years 2022 through 2025.

(4) PUBLICATION OF METHODOLOGY.—

(A) IN GENERAL.—Prior to the issuance of any notice of funding opportunity for grants under this section, the Secretary shall publish and make publicly available on the Department's website—

(i) a detailed explanation of the merit criteria developed under subsection (h);

(ii) a description of the evaluation process under this subsection; and

(iii) how the Secretary shall determine whether a project satisfies each of the requirements under subsection (g).

(B) UPDATES.—The Secretary shall update and make publicly available on the website of the Department of Transportation such information at any time a revision to the information described in subparagraph (A) is made.

(C) INFORMATION REQUIRED.—The Secretary shall include in the published notice of funding opportunity for a grant under this section detailed information on the rating methodology and merit criteria to be used to evaluate applications, or a reference to the information on the website of the Department of Transportation, as required by subparagraph (A).

(j) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of a project carried out with a grant under this section may not exceed 60 percent.

(2) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under this section may be used to satisfy the non-Federal share of the cost of a project for which such a grant is made, except that the total Federal assistance provided for a project receiving a grant under this section may not exceed 80 percent of the total project cost.

(k) TREATMENT OF PROJECTS.—

(1) FEDERAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

(A) the requirements of this title to a highway project;

(B) the requirements of chapter 53 of title 49 to a public transportation project; and

(C) the requirements of section 22905 of title 49 to a passenger rail or freight rail project.

(2) MULTIMODAL PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

(i) determine the predominant modal component of the project; and

(ii) apply the applicable requirements of such predominant modal component to the project.

(B) EXCEPTIONS.—

(i) PASSENGER OR FREIGHT RAIL COMPONENT.—For any passenger or freight rail component of a project, the requirements of section 22907(j)(2) of title 49 shall apply.

(ii) PUBLIC TRANSPORTATION COMPONENT.—For any public transportation component of a project, the requirements of section 5333 of title 49 shall apply.

(C) BUY AMERICA.—In applying the Buy American requirements under section 313 of this title and sections 5320, 22905(a), and 24305(f) of title 49 to a multimodal project under this paragraph, the Secretary shall—

(i) consider the various modal components of the project; and

(ii) seek to maximize domestic jobs.

(3) FEDERAL-AID HIGHWAY REQUIREMENTS.—Notwithstanding any other provision of this subsection, the Secretary shall require recipients of grants under this section to comply with subsection (a) of section 113 with respect to public transportation projects, passenger rail projects, and freight rail projects, in the same manner that recipients of grants are required to comply with such subsection for construction work performed on highway projects on Federal-aid highways.

(l) TIFIA PROGRAM.—At the request of an eligible entity under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

(m) ADMINISTRATION.—Of the amounts made available to carry out this section, the Secretary may use up to $5,000,000 for the costs of administering the program under this section.

(n) TECHNICAL ASSISTANCE.—Of the amounts made available to carry out this section, the Secretary may reserve up to $5,000,000 to provide technical assistance to eligible entities.

(o) CONGRESSIONAL REVIEW.—

(1) NOTIFICATION.—Not less than 60 days before making an award under this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate—

(A) a list of all applications determined to be eligible for a grant by the Secretary;

(B) the quality ratings assigned to each application pursuant to subsection (i);

(C) a list of applications that received final consideration by the Secretary to receive an award under this section;

(D) each application proposed to be selected for a grant award;

(E) proposed grant amounts, including for each new multiyear grant agreement, the proposed payout schedule for the project; and

(F) an analysis of the impacts of any large projects proposed to be selected on existing commitments and anticipated funding levels for the next 4 fiscal years, based on information available to the Secretary at the time of the report.

(2) COMMITTEE REVIEW.—Before the last day of the 60-day period described in paragraph (1), each Committee described in paragraph (1) shall review the Secretary's list of proposed projects.

(3) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

(p) TRANSPARENCY.—

(1) IN GENERAL.—Not later than 30 days after awarding a grant for a project under this section, the Secretary shall send to all applicants, and publish on the website of the Department of Transportation—

(A) a summary of each application made to the program for the grant application period; and

(B) the evaluation and justification for the project selection, including ratings assigned to all applications and a list of applications that received final consideration by the Secretary to receive an award under this section, for the grant application period.

(2) BRIEFING.—The Secretary shall provide, at the request of a grant applicant under this section, the opportunity to receive a briefing to explain any reasons the grant applicant was not awarded a grant.

(q) DEFINITIONS.—In this section:

(1) AREAS OF PERSISTENT POVERTY.—The term "areas of persistent poverty" has the meaning given such term in section 172(l).

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State or a group of States;

(B) a unit of local government, including a metropolitan planning organization, or a group of local governments;

(C) a political subdivision of a State or local government;

(D) a special purpose district or public authority with a transportation function, including a port authority;

(E) a Tribal government or a consortium of Tribal governments;

(F) a Federal agency eligible to receive funds under section 201, 203, or 204 that applies jointly with a State or group of States;

(G) a territory; and

(H) a multistate or multijurisdictional group of entities described in this paragraph.

§ 118. Availability of funds

(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(b) PERIOD OF AVAILABILITY.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(c) OBLIGATION AND RELEASE OF FUNDS.—

(1) IN GENERAL.—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

(A) credited to the same class of funds previously apportioned or allocated to the State for the project; and

(B) immediately available for obligation.

(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this subsection shall be recorded and reported as net obligations.

(d) Funds made available to the State of Alaska [and the Commonwealth of Puerto Rico], *the Commonwealth of Puerto Rico, and any other territory of the United States* under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

§ 119. National highway performance program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

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

[(1) to provide support for the condition and performance of the National Highway System;

[(2) to provide support for the construction of new facilities on the National Highway System; and

[(3) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in an asset management plan of a State for the National Highway System.]

(b) PURPOSES.—The purposes of the national highway performance program shall be—

(1) to provide support for the condition and performance of the National Highway System, consistent with the asset management plans of States;

(2) to support progress toward the achievement of performance targets of States established under section 150;

(3) to increase the resilience of Federal-aid highways and bridges; and

(4) to provide support for the construction of new facilities on the National Highway System, consistent with subsection (d)(3).

(c) ELIGIBLE FACILITIES.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

(1)(A) a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, [or freight movement on the National Highway System] *freight movement, environmental sustainability, transportation system access, or combating climate change*; and

(B) consistent with sections 134 and 135; [and]

(2) for 1 or more of the following purposes:

(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

(E) Training of bridge and tunnel inspectors, as described in section 144.

(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

(i) the highway project or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System; *and*

(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow**[**; and**]**.

[(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).**]**

(H) Bicycle transportation and pedestrian walkways in accordance with section 217.

(I) Highway safety improvements for segments of the National Highway System*, including the installation of safety barriers and nets on bridges on the National Highway System*.

(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

(L) Infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment.

(M) Environmental restoration and pollution abatement in accordance with section 328.

(N) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

(O) Environmental mitigation efforts related to projects funded under this section, as described in subsection (g).

(P) Construction of publicly owned intracity or intercity bus terminals servicing the National Highway System.

(Q) Projects on or off the National Highway System to reduce greenhouse gas emissions that are eligible under section 171, including the installation of electric vehicle charging infrastructure.

(R) Projects on or off the National Highway System to enhance resilience of a transportation facility, including protective features.

(S) Projects and strategies to reduce vehicle-caused wildlife mortality related to, or to restore and maintain connectivity among terrestrial or aquatic habitats affected by, a transportation facility otherwise eligible for assistance under this section.

(T) Projects on or off the National Highway System to improve an evacuation route eligible under section 124(b)(1)(C).

(U) Undergrounding public utilities in the course of other infrastructure improvements eligible under this section to mitigate the cost of recurring damages from extreme weather events, wildfire or other natural disasters.

(3) a project that is otherwise eligible under this subsection to construct new capacity for single occupancy passenger vehicles only if the State—

(A) has demonstrated progress in achieving a state of good repair, as defined in the State's asset management plan, on the National Highway System;

(B) demonstrates that the project—

(i) supports the achievement of performance targets of the State established under section 150; and

(ii) is more cost effective, as determined by benefit-cost analysis, than—

(I) an operational improvement to the facility or corridor;

(II) the construction of a transit project eligible for assistance under chapter 53 of title 49; or

(III) the construction of a non-single occupancy passenger vehicle project that improves freight movement; and

(C) has a public plan for maintaining and operating the new asset while continuing its progress in achieving a state of good repair under subparagraph (A).

(e) STATE *ASSET AND* PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve the condition of the assets and the performance of the system.

(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with section 150(d) and supporting the progress toward the achievement of the national goals identified in section 150(b).

(3) SCOPE.—In developing a risk-based asset management plan, the Secretary shall encourage States to include all infrastructure assets within the right-of-way corridor in such plan.

(4) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

(B) asset management objectives and measures;

(C) performance gap identification;

(D) lifecycle cost and risk management [analysis] *analyses, both of which shall take into consideration climate change adaptation and resilience;*;

(E) a financial plan; and

(F) investment strategies.

(5) REQUIREMENT FOR PLAN.—

(A) IN GENERAL.—Notwithstanding section 120, each fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan consistent with this section, the Federal share payable on account of any project or activity for which funds are obligated by the State in that fiscal year under this section shall be 65 percent.

(B) DETERMINATION.—The Secretary shall make the determination under subparagraph (A) for a fiscal year not later than the day before the beginning of such fiscal year.

(6) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

(A) IN GENERAL.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

(i) review the process; and

(ii)(I) certify that the process meets the requirements established by the Secretary; or

(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

(B) RECERTIFICATION.—Not less frequently than once every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

(7) PERFORMANCE ACHIEVEMENT.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in section 150(d) for the National Highway System shall include as part of the performance target report under section 150(e) a description of the actions the State will undertake to achieve the targets.

(8) PROCESS.—[Not later than 18 months after the date of enactment of the MAP–21, the Secretary] *The Secretary* shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1).

(f) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

(1) CONDITION OF INTERSTATE SYSTEM.—

(A) PENALTY.—If a State reports that the condition of the Interstate System, excluding bridges on the Interstate System, has fallen below the minimum condition level established by the Secretary under section 150(c)(3), the State shall be required, during the following fiscal year—

(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21).

(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary.

(2) CONDITION OF NHS BRIDGES.—

(A) PENALTY.—If the Secretary determines that, for the 3-year-period preceding the date of the determination, more than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, an amount equal to 50 percent of funds apportioned to

such State for fiscal year 2009 to carry out section 144 (as in effect the day before enactment of MAP–21) shall be set aside from amounts apportioned to a State for a fiscal year under section 104(b)(1) only for eligible projects on bridges on the National Highway System.

(B) RESTORATION.—The set-aside requirement for bridges on the National Highway System in a State under subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, as determined by the Secretary.

(g) ENVIRONMENTAL MITIGATION.—

(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal law (including regulations), environmental mitigation efforts referred to in subsection (d)(2)(O) include participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include—

(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

(i) the purchase of credits from commercial mitigation banks;

(ii) the establishment and management of agency-sponsored mitigation banks; and

(iii) the purchase of credits or establishment of in-lieu fee mitigation programs;

(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and

(C) the development of statewide and regional environmental protection plans, including natural habitat and wetland conservation and restoration plans.

(2) INCLUSION OF OTHER ACTIVITIES.—The banks, efforts, and plans described in paragraph (1) include any such banks, efforts, and plans developed in accordance with applicable law (including regulations).

(3) TERMS AND CONDITIONS.—The following terms and conditions apply to natural habitat and wetlands mitigation efforts under this subsection:

(A) Contributions to the mitigation effort may—

(i) take place concurrent with, or in advance of, commitment of funding under this title to a project or projects; and

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

(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title, unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank cred-

its the agency uses for purposes other than mitigation of a project funded under this title.

(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project, is approved by the applicable Federal agency.

(h) TIFIA PROGRAM.—Upon Secretarial approval of credit assistance under chapter 6, the Secretary, at the request of a State, may allow the State to use funds apportioned under section 104(b)(1) to pay subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(i) ADDITIONAL FUNDING ELIGIBILITY FOR CERTAIN BRIDGES.—

(1) IN GENERAL.—Funds apportioned to a State to carry out the national highway performance program may be obligated for a project for the reconstruction, resurfacing, restoration, rehabilitation, or preservation of a bridge not on the National Highway System, if the bridge is on a Federal-aid highway.

(2) LIMITATION.—A State required to make obligations under subsection (f) shall ensure such requirements are satisfied in order to use the flexibility under paragraph (1).

(j) CRITICAL INFRASTRUCTURE.—

(1) CRITICAL INFRASTRUCTURE DEFINED.—In this subsection, the term "critical infrastructure" means those facilities the incapacity or failure of which would have a debilitating impact on national or regional economic security, national or regional energy security, national or regional public health or safety, or any combination of those matters.

(2) CONSIDERATION.—The asset management plan of a State may include consideration of critical infrastructure from among those facilities in the State that are eligible under subsection (c).

(3) RISK REDUCTION.—A State may use funds apportioned under this section for projects intended to reduce the risk of failure of critical infrastructure in the State.

(k) BENEFIT-COST ANALYSIS.—In carrying out subsection (d)(3)(B)(ii), the Secretary shall establish a process for analyzing the cost and benefits of projects under such subsection, ensuring that—

(1) the benefit-cost analysis includes a calculation of all the benefits addressed in the performance measures established under section 150;

(2) the benefit-cost analysis includes a consideration of the total maintenance cost of an asset over the lifecycle of the asset; and

(3) the State demonstrates that any travel demand modeling used to calculate the benefit-cost analysis has a documented record of accuracy.

§ 120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to paragraph (1), a State may determine a lower Federal share than the Federal share determined under such paragraph.

(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement. In the case of any project subject to this subsection, a State

may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.

(c) INCREASED FEDERAL SHARE.—

(1) CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, maintaining minimum levels of retroreflectivity of highway signs or pavement markings, traffic circles (also known as "roundabouts"), safety rest areas, pavement marking, shoulder and centerline rumble strips and stripes, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid programs for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term "safety rest area" means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.

(3) INNOVATIVE PROJECT DELIVERY.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project, program, or activity carried out with funds apportioned under paragraph (1), (2), ⟦(5)(D),⟧ or (6) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

(ii) contains innovative technologies, engineering or design approaches, manufacturing processes, financing, or contracting or project delivery methods that improve the quality of, extend the service life of, or decrease the long-term costs of maintaining highways and bridges;

(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

(iv) reduces congestion related to highway construction.

(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

[(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

[(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;]

(i) prefabricated bridge elements and systems, innovative materials, and other technologies to reduce bridge construction time, extend service life, and reduce preservation costs, as compared to conventionally designed and constructed bridges;

(ii) innovative construction equipment, materials, techniques, or practices, including the use of in-place recycling technology, digital 3-dimensional modeling technologies, and advanced digital construction management systems;

(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods and alternative bidding;

(iv) intelligent compaction equipment;

(v) innovative pavement materials that have a demonstrated life cycle of 75 or more years, are manufactured with reduced greenhouse gas emissions, and reduce construction-related congestion by rapidly curing; [or]

(vi) innovative pavement materials that demonstrate reductions in greenhouse gas emissions through sequestration or innovative manufacturing processes; or

[(vi)] *(vii)* contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

(C) LIMITATIONS.—

(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), [(5)(D)], and (6) of section 104(b).

(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project, program, or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.

(d) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, other Federally owned roads that are open to public travel, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 90 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.

(f) The Secretary is authorized to cooperate with the State transportation departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(g) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(h) INCREASED NON-FEDERAL SHARE.—Notwithstanding any other provision of this title and subject to such criteria as the Secretary may establish, a State may contribute an amount in excess of the non-Federal share of a project under this title so as to decrease the Federal share payable on such project.

(i) CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or

maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce.

(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.

(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term "Federal funds" does not include loans of Federal funds or other financial assistance that must be repaid to the Government.

(2) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for any program under this title.

(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term "non-Federal transportation capital expenditures" includes any payments made by the State for issuance of transportation-related bonds.

(3) TREATMENT.—

(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

(i) shall not expose the agency to additional liability, additional regulation, or additional administrative oversight; and

(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is ap-

plied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.

(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49 may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.

* * * * * * *

§ 124. Predisaster mitigation program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a predisaster mitigation program to enhance the resilience of the transportation system of the United States, mitigate the impacts of covered events, and ensure the efficient use of Federal resources.

(b) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to the State under section 104(b)(8) may be obligated for construction activities, including construction of natural infrastructure or protective features and the development of such projects and programs that help agencies, to—

(A) increase the resilience of a surface transportation infrastructure asset to withstand a covered event;

(B) relocate or provide a reasonable alternative to a repeatedly damaged facility;

(C) for an evacuation route identified in the vulnerability assessment required under section 134(i)(2)(I)(iii) or section 135(f)(10)(C)—

(i) improve the capacity or operation of such evacuation route through—

(I) communications and intelligent transportation system equipment and infrastructure;

(II) counterflow measures; and

(III) shoulders; and

(ii) relocate such evacuation route or provide a reasonable alternative to such evacuation route to address the risk of a covered event; and

(D) recover from incidents that significantly disrupt a regions transportation system including—

(i) predisaster training programs that help agencies and regional stakeholders plan for and prepare multimodal recovery efforts; and

(ii) the establishment of regional wide telework training and programs.

(2) INFRASTRUCTURE RESILIENCE AND ADAPTATION.—No funds shall be obligated to a project under this section unless the project meets each of the following criteria:

(A) The project is designed to ensure resilience over the anticipated service life of the surface transportation infrastructure asset.

(B) The project is identified in the metropolitan or statewide transportation improvement program as a project to address resilience vulnerabilities, consistent with section 134(j)(3)(E) or 135(g)(5)(B)(iii).

(C) For a project in a flood-prone area, the project sponsor considers hydrologic and hydraulic data and methods that integrate current and projected changes in flooding based on climate science over the anticipated service life of the surface transportation infrastructure asset and future forecasted land use changes.

(3) PRIORITIZATION OF PROJECTS.—A State shall develop a process to prioritize projects under this section based on the degree to which the proposed project would—

(A) be cost effective;

(B) reduce the risk of disruption to a surface transportation infrastructure asset considered critical to support population centers, freight movement, economic activity, evacuation, recovery, or national security functions; and

(C) ease disruptions to vulnerable, at-risk, or transit-dependant populations.

(c) GUIDANCE.—The Secretary shall provide guidance to States to assist with the implementation of paragraphs (2) and (3) of subsection (b).

(d) DEFINITIONS.—In this section:

(1) COVERED EVENT.—The term "covered event" means a climate change effect (including sea level rise), an extreme event, seismic activity, or any other natural disaster (including a wildfire or landslide).

(2) SURFACE TRANSPORTATION INFRASTRUCTURE ASSET.—The term "surface transportation infrastructure asset" means a facility eligible for assistance under this title or chapter 53 of title 49.

§ 125. Emergency relief

(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, *wildfire,* or landslide; or

(2) catastrophic failure from any external cause.

[(b) RESTRICTION ON ELIGIBILITY.—

[(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term "construction phase" means the phase of physical construction of a highway or bridge facility that is

separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

[(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

[(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

[(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).]

[(c)] *(b)* FUNDING.—

(1) IN GENERAL.—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

(A) not more than $100,000,000 is authorized to be obligated [in any 1 fiscal year commencing after September 30, 1980,] *in any fiscal year* to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

(i) remain available until expended; and

(ii) be in addition to amounts otherwise available to carry out this section for each year; and

(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

[(d)] *(c)* ELIGIBILITY.—

[(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

[(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

[(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

[(2) COST LIMITATION.—

[(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term "comparable facility" means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

[(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.]

(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter.

(2) RESTRICTIONS.—

(A) IN GENERAL.—No funds shall be expended from the emergency fund authorized by this section unless—

(i) an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

(ii) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

(B) COST LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility unless the Secretary determines that the project incorporates economically justified betterments, including protective features to increase the resilience of the facility.

(3) SPECIAL RULE FOR BRIDGE PROJECTS.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

(B) if a construction phase of a replacement structure is included in the approved statewide transportation improvement program at the time of an event described in subsection (a).

[(3)] *(4)* DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192); or

(C) projects eligible for assistance under this section located on tribal transportation facilities, Federal lands transportation facilities, or other federally owned roads that are open to public travel (as defined in [subsection (e)(1)] *subsection (g)*).

(5) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

[(e)] *(d)* TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

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

[(A) OPEN TO PUBLIC TRAVEL.—The term "open to public travel" means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—

[(i) is maintained;

[(ii) is open to the general public; and

[(iii) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

[(B) STANDARD PASSENGER VEHICLE.—The term "standard passenger vehicle" means a vehicle with 6 inches of clearance from the lowest point of the frame, body, suspension, or differential to the ground.]

[(2)] *(1)* EXPENDITURE OF FUNDS.—Notwithstanding [subsection (d)(1)] *subsection (c)(1)*, the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

[(3)] *(2)* REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions)

for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

(ii) the budget authority associated with the expenditure shall be restored to the agency from which the authority was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

[(f)**]** *(e)* TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.

[(g)**]** *(f)* PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use not more than 5 percent of amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect the public safety or to maintain or protect roadways that are included within the scope of an emergency declaration by the Governor of the State or by the President, in accordance with this section, and the Governor deems to be an ongoing concern in order to maintain vehicular traffic on the roadway.

(g) IMPOSITION OF DEADLINE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may not require any project funded under this section to advance to the construction obligation stage before the date that is the last day of the sixth fiscal year after the later of—

(A) the date on which the Governor declared the emergency, as described in subsection (d)(2)(A)(i); or

(B) the date on which the President declared the emergency to be a major disaster, as described in such subsection.

(2) EXTENSION OF DEADLINE.—If the Secretary imposes a deadline for advancement to the construction obligation stage pursuant to paragraph (1), the Secretary may, upon the request of the Governor of the State, issue an extension of not more than 1 year to complete such advancement, and may issue additional extensions after the expiration of any extension, if the Secretary determines the Governor of the State has provided suitable justification to warrant such an extension.

(h) PREDISASTER HAZARD MITIGATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a predisaster mitigation program for the purpose of mitigating future hazards posed to Federal-aid highways.

(2) DISTRIBUTION OF FUNDS.—Every 6 months, the Secretary shall total the amount of funds made available to each State, territory, Tribal or other eligible entity under the emergency relief program under this section during the preceding 6 months and remit an additional 5 percent from the Highway Trust Fund to such entities for eligible activities described in paragraph (3).

(3) ELIGIBLE ACTIVITIES.—Funds made available under paragraph (2) shall be used for mitigation projects and activities that the Secretary determines are cost effective and which substantially reduce the risk of, or increase resilience to, future damage as a result of natural disasters, including by flood, hurricane, tidal wave, earthquake, severe storm, or landslide, by upgrading existing assets to meet or exceed design standards adopted by the Federal Highway Administration by—

(A) relocating or elevating roadways;

(B) increasing the size or number of drainage structures, including culverts;

(C) installing mitigation measures to prevent the impairment of transportation assets as a result of the intrusion of floodwaters;

(D) improving bridges to expand water capacity and prevent flooding;

(E) deepening channels to prevent asset inundation and improve drainage;

(F) improving strength of natural features adjacent to highway right-of-way to promote additional flood storage;

(G) installing or upgrading tide gates and flood gates;

(H) stabilizing slide areas or slopes;

(I) installing seismic retrofits for bridges;

(J) adding scour protection at bridges;

(K) adding scour, stream stability, coastal, or other hydraulic countermeasures, including riprap;

(L) installing intelligent transportation system equipment to monitor infrastructure quality; and

(M) any other protective features as determined by the Secretary.

(4) REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate an annual report detailing—

(A) a description of the activities carried out under the pilot program;

(B) an evaluation of the effectiveness of the pilot program in meeting purposes descried in paragraph (1);

(C) policy recommendations to improve the effectiveness of the pilot program.

(i) IMPROVING THE EMERGENCY RELIEF PROGRAM.—Not later than 90 days after the date of enactment of the INVEST in America Act, the Secretary shall—

(1) revise the emergency relief manual of the Federal Highway Administration—

(A) to include and reflect the definition of the term "resilience" (as defined in section 101(a));

(B) to identify procedures that States may use to incorporate resilience into emergency relief projects; and

(C) to encourage the use of context sensitive design principles and consideration of access for moderate- and low-income families impacted by a declared disaster;

(2) develop best practices for improving the use of resilience in—

(A) the emergency relief program under section 125; and

(B) emergency relief efforts;

(3) provide to division offices of the Federal Highway Administration and State departments of transportation information on the best practices developed under paragraph (2); and

(4) develop and implement a process to track—

(A) the consideration of resilience as part of the emergency relief program under section 125; and

(B) the costs of emergency relief projects.

(j) DEFINITIONS.—In this section:

(1) COMPARABLE FACILITY.—The term "comparable facility" means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

(2) CONSTRUCTION PHASE.—The term "construction phase" means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

(3) OPEN TO PUBLIC TRAVEL.—The term "open to public travel" means with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—

(A) is maintained;

(B) is open to the general public; and

(C) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(4) STANDARD PASSENGER VEHICLE.—The term "standard passenger vehicle" means a vehicle with 6 inches of clearance from the lowest point of the frame, body, suspension, or differential to the ground.

§ 126. Transferability of Federal-aid highway funds

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 50 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

(b) APPLICATION TO CERTAIN SET-ASIDES *AND PROGRAMS*.—

(1) IN GENERAL.—Funds that are subject to sections 104(d) [and 133(d)(1)(A)], *130, 133(d)(1)(A), 133(h), 149, and 171* shall not be transferred under this section.

[(2) FUNDS TRANSFERRED BY STATES.—Funds transferred by a State under this section of the funding reserved for the State under section 133(h) for a fiscal year may only come from the portion of those funds that are available for obligation in any area of the State under section 133(h).]

(2) ENVIRONMENTAL PROGRAMS.—With respect to an apportionment under either paragraph (4) or paragraph (9) of section 104(b), and notwithstanding paragraph (1), a State may only transfer not more than 50 percent from the amount of the apportionment of either such paragraph to the apportionment under the other such paragraph in a fiscal year.

§ 127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—

(1) The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State does not permit the use of The Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more.

(2) However, the maximum gross weight to be allowed by any State for vehicles using The Dwight D. Eisenhower System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N-1}\right)+12N+36B$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles (1) is thirty-six feet or more, or (2) in the case of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container before September 1, 1989, is 30 feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles

using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1989), on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater.

(3) Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse if not released and obligated within the availability period specified in section 118(b).

(4) This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof, other than vehicles or combinations subject to subsection (d) of this section, which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974.

(5) With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.

(6) With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.

(7) With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(8) With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.

(9) The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually.

(10) With respect to Interstate Routes 89, 93, and 95 in the State of New Hampshire—

(A) State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection; and

(B) effective June 30, 2016, a combination of truck-tractor and dump trailer equipped with 6 axles or more with a gross weight of up to 99,000 pounds shall be permitted if the distances between the extreme axles, excluding the steering axle, is 28 feet or more.

(11)(A) With respect to all portions of the Interstate Highway System in the State of Maine, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.

(B) With respect to all portions of the Interstate Highway System in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to other State highways shall be applicable in lieu of the requirements under this subsection.

(12) HEAVY DUTY VEHICLES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 550 pounds.

(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

(i) the idle reduction technology is fully functional at all times; and

(ii) the 550-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).

(13) MILK PRODUCTS.—A vehicle carrying fluid milk products shall be considered a load that cannot be easily dismantled or divided.

(b) REASONABLE ACCESS.—No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

(c) OCEAN TRANSPORT CONTAINER DEFINED.—For purposes of this section, the term "ocean transport container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668–1979(E)) as in effect on the date of the enactment of this subsection.

(d) LONGER COMBINATION VEHICLES.—

(1) PROHIBITION.—

(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 281/2 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.

(2) ADDITIONAL STATE RESTRICTIONS.—

(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 31111–31114 of title 49.

(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regula-

tions issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

(3) PUBLICATION OF LIST.—

(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the

publication under subparagraph (D) to reflect the determination of the Secretary.

(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).

(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.

(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 103(c)(4)(A), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of the enactment of this subsection.

(g) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN PENNSYLVANIA HIGHWAYS.—If the segment of United States Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to that segment with respect to the operation of any vehicle which could have legally operated on that segment before the date of the enactment of this subsection.

(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.

(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) the permits are issued in accordance with State law; and

(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.

(j) OPERATION OF VEHICLES ON CERTAIN OTHER WISCONSIN HIGHWAYS.—If any segment of the United States Route 41 corridor, as described in section 1105(c)(57) of the Intermodal Surface Transportation Efficiency Act of 1991, is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(k) OPERATION OF VEHICLES ON CERTAIN MISSISSIPPI HIGHWAYS.—If any segment of United States Route 78 in Mississippi from mile marker 0 to mile marker 113 is designated as part of the Interstate System, no limit established under this section may apply to that segment with respect to the operation of any vehicle that could have legally operated on that segment before such designation.

(l) OPERATION OF VEHICLES ON CERTAIN KENTUCKY HIGHWAYS.—

(1) IN GENERAL.—If any segment of highway described in paragraph (2) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

(2) DESCRIPTION OF HIGHWAY SEGMENTS.—The highway segments referred to in paragraph (1) are as follows:

(A) Interstate Route 69 in Kentucky (formerly the Wendell H. Ford (Western Kentucky) Parkway) from the Interstate Route 24 Interchange, near Eddyville, to the Edward T. Breathitt (Pennyrile) Parkway Interchange.

(B) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as Interstate Route 69) in Kentucky from the Wendell H. Ford (Western Kentucky) Parkway Interchange to near milepost 77, and on new alignment to an

interchange on the Audubon Parkway, if the segment is designated as part of the Interstate System.

(3) ADDITIONAL HIGHWAY SEGMENTS.—

(A) IN GENERAL.—If any segment of highway described in clauses (i) through (iv) of this subparagraph is designated as a route of the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a), except that such vehicle shall not exceed a gross vehicle weight of 120,000 pounds. The highway segments referred to in this paragraph are as follows:

(i) The William H. Natcher Parkway (to be designated as a spur of Interstate Route 65) from Interstate Route 65 in Bowling Green, Kentucky, to United States Route 60 in Owensboro, Kentucky.

(ii) The Julian M. Carroll (Purchase) Parkway (to be designated as Interstate Route 69) in Kentucky from the Tennessee state line to the interchange with Interstate Route 24, near Calvert City.

(iii) The Wendell H. Ford (Western Kentucky) Parkway (to be designated as a spur of Interstate Route 69) from the interchange with the William H. Natcher Parkway in Ohio County, Kentucky, west to the interchange of the Western Kentucky Parkway with the Edward T. Breathitt (Pennyrile) Parkway.

(iv) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as a spur of Interstate Route 69) from Interstate 24, north to Interstate 69.

(B) NONDIVISIBLE LOAD OR VEHICLE.—Nothing in this paragraph shall prohibit the State from issuing a permit for a nondivisible load or vehicle with a gross vehicle weight that exceeds 120,000 pounds.

(m) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLES.—

(1) IN GENERAL.—The vehicle weight limitations set forth in this section do not apply to a covered heavy-duty tow and recovery vehicle.

(2) COVERED HEAVY-DUTY TOW AND RECOVERY VEHICLE DEFINED.—In this subsection, the term "covered heavy-duty tow and recovery vehicle" means a vehicle that—

(A) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(B) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(n) OPERATION OF VEHICLES ON CERTAIN HIGHWAYS IN THE STATE OF TEXAS.—If any segment in the State of Texas of United States Route 59, United States Route 77, United States Route 281, United States Route 84, Texas State Highway 44, or another roadway is designated as Interstate Route 69, a vehicle that could operate legally on that segment before the date of the designation may

continue to operate on that segment, without regard to any requirement under this section.

(o) CERTAIN LOGGING VEHICLES IN THE STATE OF WISCONSIN.—

(1) IN GENERAL.—The Secretary shall waive, with respect to a covered logging vehicle, the application of any vehicle weight limit established under this section.

(2) COVERED LOGGING VEHICLE DEFINED.—In this subsection, the term "covered logging vehicle" means a vehicle that—

(A) is transporting raw or unfinished forest products, including logs, pulpwood, biomass, or wood chips;

(B) has a gross vehicle weight of not more than 98,000 pounds;

(C) has not less than 6 axles; and

(D) is operating on a segment of Interstate Route 39 in the State of Wisconsin from mile marker 175.8 to mile marker 189.

(p) OPERATION OF CERTAIN SPECIALIZED VEHICLES ON CERTAIN HIGHWAYS IN THE STATE OF ARKANSAS.—If any segment of United States Route 63 between the exits for highways 14 and 75 in the State of Arkansas is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits under subsection (a) and the width limitation under section 31113(a) of title 49 shall not apply to that segment with respect to the operation of any vehicle that could operate legally on that segment before the date of the designation.

(q) CERTAIN LOGGING VEHICLES IN THE STATE OF MINNESOTA.—

(1) IN GENERAL.—The Secretary shall waive, with respect to a covered logging vehicle, the application of any vehicle weight limit established under this section.

(2) COVERED LOGGING VEHICLE DEFINED.—In this subsection, the term "covered logging vehicle" means a vehicle that—

(A) is transporting raw or unfinished forest products, including logs, pulpwood, biomass, or wood chips;

(B) has a gross vehicle weight of not more than 99,000 pounds;

(C) has not less than 6 axles; and

(D) is operating on a segment of Interstate Route 35 in the State of Minnesota from mile marker 235.4 to mile marker 259.552.

(r) EMERGENCY VEHICLES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State shall not enforce against an emergency vehicle a vehicle weight limit (up to a maximum gross vehicle weight of 86,000 pounds) of less than—

(A) 24,000 pounds on a single steering axle;

(B) 33,500 pounds on a single drive axle;

(C) 62,000 pounds on a tandem axle; or

(D) 52,000 pounds on a tandem rear drive steer axle.

(2) EMERGENCY VEHICLE DEFINED.—In this subsection, the term "emergency vehicle" means a vehicle designed to be used under emergency conditions—

(A) to transport personnel and equipment; and

(B) to support the suppression of fires and mitigation of other hazardous situations.

[(s) NATURAL GAS AND ELECTRIC BATTERY VEHICLES.—A vehicle, if operated by an engine fueled primarily by natural gas or powered primarily by means of electric battery power, may exceed the weight limit on the power unit by up to 2,000 pounds (up to a maximum gross vehicle weight of 82,000 pounds) under this section.]

(s) NATURAL GAS, ELECTRIC BATTERY, AND ZERO EMISSION VEHICLES.—A vehicle, if operated by an engine fueled primarily by natural gas powered primarily by means of electric battery power or fueled primarily by means of other zero emission fuel technologies, may exceed the weight limit on the power unit by up to 2,000 pounds (up to a maximum gross vehicle weight of 82,000 pounds) under this section.

(t) VEHICLES IN IDAHO.—A vehicle limited or prohibited under this section from operating on a segment of the Interstate System in the State of Idaho may operate on such a segment if such vehicle–

(1) has a gross vehicle weight of 129,000 pounds or less;

(2) other than gross vehicle weight, complies with the single axle, tandem axle, and bridge formula limits set forth in subsection (a); and

(3) is authorized to operate on such segment under Idaho State law.

(u) VEHICLES IN NORTH DAKOTA.—A vehicle limited or prohibited under this section from operating on a segment of the Interstate System in the State of North Dakota may operate on such a segment if such vehicle—

(1) has a gross vehicle weight of 129,000 pounds or less;

(2) other than gross vehicle weight, complies with the single axle, tandem axle, and bridge formula limits set forth in subsection (a); and

(3) is authorized to operate on such segment under North Dakota State law.

(v) DRY BULK WEIGHT TOLERANCE.—

(1) DEFINITION OF DRY BULK GOODS.—In this subsection, the term "dry bulk goods" means any homogeneous unmarked nonliquid cargo being transported in a trailer specifically designed for that purpose.

(2) WEIGHT TOLERANCE.—Notwithstanding any other provision of this section, except for the maximum gross vehicle weight limitation, a commercial motor vehicle transporting dry bulk goods may not exceed 110 percent of the maximum weight on any axle or axle group described in subsection (a), including any enforcement tolerance.

* * * * * * *

§ 129. Toll roads, bridges, tunnels, and ferries

(a) BASIC PROGRAM.—

[(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

[(A) initial construction of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

[(B) initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

[(C) initial construction of 1 or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

[(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

[(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

[(F) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

[(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration, or rehabilitation;

[(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

[(I) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.]

(1) IN GENERAL.—

(A) AUTHORIZATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

(i) initial construction of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

(ii) initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

(iii) initial construction of 1 or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

(iv) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

(v) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

(vi) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

(vii) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration, or rehabilitation;

(viii) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility, subject to the requirements of section 166; and

(ix) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

(B) AGREEMENT TO TOLL.—

(i) IN GENERAL.—Before the Secretary may authorize tolling under this subsection, the public authority with jurisdiction over a highway, bridge, or tunnel shall enter into an agreement with the Secretary to ensure compliance with the requirements of this subsection.

(ii) APPLICABILITY.—

(I) IN GENERAL.—The requirements of this subparagraph shall apply to—

(aa) Federal participation under subparagraph (A);

(bb) any prior Federal participation in the facility proposed to be tolled; and

(cc) conversion, with or without Federal participation, of a non-tolled lane on the National Highway System to a toll facility under subparagraph (E).

(II) HOV FACILITY.—Except as otherwise provided in this subsection or section 166, the provisions of this paragraph shall not apply to a high occupancy vehicle facility.

(iii) MAJOR FEDERAL ACTION.—Approval by the Secretary of an agreement to toll under this paragraph shall be considered a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) AGREEMENT CONDITIONS.—Prior to entering into an agreement to toll under subparagraph (B), the public authority shall certify to the Secretary that—

(i) the public authority has established procedures to ensure the toll meets the purposes and requirements of this subsection;

(ii) the facility shall provide for access at no cost to public transportation vehicles and over-the-road buses serving the public; and

(iii) the facility shall provide for the regional interoperability of electronic toll collection, including through technologies or business practices.

(D) CONSIDERATION OF IMPACTS.—

(i) IN GENERAL.—Prior to entering into an agreement to toll under subparagraph (B), the Secretary shall ensure the public authority has adequately considered, including by providing an opportunity for public comment, the following factors within the corridor:

(I) Congestion impacts on both the toll facility and in the corridor or cordon (including adjacent toll-free facilities).

(II) In the case of a non-attainment or maintenance area, air quality impacts.

(III) Planned investments to improve public transportation or other non-tolled alternatives in the corridor.

(IV) Environmental justice and equity impacts.

(V) Impacts on freight movement.

(VI) Economic impacts on businesses.

(ii) CONSIDERATION IN ENVIRONMENTAL REVIEW.—Nothing in this subparagraph shall limit a public authority from meeting the requirements of this subparagraph through the environmental review process, as applicable.

(E) CONGESTION PRICING.—

(i) IN GENERAL.—The Secretary may authorize conversion of a non-tolled lane on the National Highway System to a toll facility to utilize pricing to manage the demand to use the facility by varying the toll amount that is charged.

(ii) REQUIREMENT.—Prior to entering into an agreement to convert a non-tolled lane on the National Highway System to a toll facility, the Secretary shall ensure (in addition to the requirements under subparagraphs (B), (C), and (D)) that such toll facility and the planned investments to improve public transportation or other non-tolled alternatives in the corridor are reasonably expected to improve the operation of the cordon or corridor, as described in clauses (iii) and (iv).

(iii) PERFORMANCE MONITORING.—A public authority that enters into an agreement to convert a non-tolled lane to a toll facility under this subparagraph shall—

(I) establish, monitor, and support a performance monitoring, evaluation, and reporting program—

(aa) for the toll facility that provides for continuous monitoring, assessment, and reporting on the impacts that the pricing structure may have on the operation of the facility; and

(bb) for the corridor or cordon that provides for continuous monitoring, assessment, and reporting on the impacts of congestion pricing on the operation of the corridor or cordon;

(II) submit to the Secretary annual reports of the impacts described in subclause (I); and

(III) if the facility or the corridor or cordon becomes degraded, as described in clause (iv), submit to the Secretary an annual update that describes the actions proposed to bring the toll facility into compliance and the progress made on such actions.

(iv) DETERMINATION.—

(I) DEGRADED OPERATION.—For purposes of clause (iii)(III), the operation of a toll facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during peak hour periods.

(II) DEGRADED CORRIDOR OR CORDON.—For the purposes of clause (iii)(III), a corridor or cordon shall be considered to be degraded if congestion pricing or investments to improve public transportation or other non-tolled alternatives have not resulted in—

(aa) an increase in person or freight throughput in the corridor or cordon; or

(bb) a reduction in person hours of delay in the corridor or cordon, as determined by the Secretary.

(III) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this subparagraph, the term "minimum average operating speed" means—

(aa) 35 miles per hour, in the case of a toll facility with a speed limit of 45 miles per hour or greater; and

(bb) not more than 10 miles per hour below the speed limit, in the case of a toll facility with a speed limit of less than 50 miles per hour.

(v) MAINTENANCE OF OPERATING PERFORMANCE.—

(I) IN GENERAL.—Not later than 180 days after the date on which a facility or a corridor or cordon becomes degraded under clause (iv), the public authority with jurisdiction over the facility shall submit to the Secretary for approval a plan that details the actions the public authority will take to make significant progress toward bringing the facility or corridor or cordon into compliance with this subparagraph.

(II) NOTICE OF APPROVAL OR DISAPPROVAL.—Not later than 60 days after the date of receipt of a plan under subclause (I), the Secretary shall provide to the public authority a written notice indicating whether the Secretary has approved or disapproved the plan based on a determination of whether the implementation of the plan will make significant progress toward bringing the facility or corridor or cordon into compliance with this subparagraph.

(III) UPDATE.—Until the date on which the Secretary determines that the public authority has brought the facility or corridor or cordon into compliance with this subparagraph, the public authority shall submit annual updates that describe—

(aa) the actions taken to bring the facility into compliance;

(bb) the actions taken to bring the corridor or cordon into compliance; and

(cc) the progress made by those actions.

(IV) COMPLIANCE.—If a public authority fails to bring a facility into compliance under this subparagraph, the Secretary may subject the public authority to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

(vi) CONSULTATION OF MPO.—If a toll facility authorized under this subparagraph is located on the National Highway System and in a metropolitan planning area established in accordance with section 134, the public authority shall consult with the metropolitan planning organization for the area.

(vii) INCLUSION.—For the purposes of this paragraph, the corridor or cordon shall include toll-free facilities that are adjacent to the toll facility.

(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach to the highway, bridge, or tunnel constructed under this subsection shall—

(A) be publicly owned; or

(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with 1 or more private persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

(3) LIMITATIONS ON USE OF REVENUES.—

(A) IN GENERAL.—A public authority with jurisdiction over a toll facility shall ensure that all toll revenues received from operation of the toll facility are used only for—

(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

(ii) a reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned;

(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; **[**and**]**

[(v) if the public authority certifies annually that the tolled facility is being adequately maintained, any other purpose for which Federal funds may be obligated by a State under this title.**]**

(v) any project eligible under this title or chapter 53 of title 49 that improves the operation of the corridor or cordon by increasing person or freight throughput and reducing person hours of delay;

(vi) toll discounts or rebates for users of the toll facility that have no reasonable alternative transportation method to the toll facility; and

(vii) if the public authority certifies annually that the tolled facility is being adequately maintained and the cordon or corridor is not degraded under paragraph (1)(E), any revenues remaining after funding the activities described in clauses (i) through (vi) shall be considered surplus revenue and may be used for any other purpose for which Federal funds may be obligated by a State under this title or chapter 53 of title 49.

[(B) ANNUAL AUDIT.—

[(i) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits to the Secretary.

[(ii) RECORDS.—On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.]

(B) TRANSPARENCY.—

(i) ANNUAL AUDIT.—

(I) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits to the Secretary.

(II) RECORDS.—On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

(ii) USE OF REVENUES.—A State or public authority that obligates amounts under clauses (v), (vi), or (vii) of subparagraph (A) shall annually report to the Secretary a list of activities funded with such amounts and the amount of funding provided for each such activity.

(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

(4) SPECIAL RULE FOR FUNDING.—

(A) IN GENERAL.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), on request of the State transportation department and subject to such terms and conditions as the department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse the public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as the department would be reimbursed if the project was being carried out by the department.

(B) SOURCE.—The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects

on the Federal-aid highways in the State on which the project is being carried out.

(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.

(6) MODIFICATIONS.—If a public authority (including a State transportation department) with jurisdiction over a toll facility subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1915), requests modification of the agreement, the Secretary shall modify the agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

(7) LOANS.—

(A) IN GENERAL.—

(i) LOANS.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to the project.

(ii) DEDICATED REVENUE SOURCES.—Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

(i) for any purpose for which the loan funds were available under this title; and

(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

(8) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility [as of the date of enactment of the MAP–21, before commencing any activity authorized], *before commencing any activity authorized* under this section, the State shall have in effect a law that permits tolling on a highway, bridge, or tunnel.

(9) EQUAL ACCESS FOR OVER-THE-ROAD BUSES.—An over-the-road [bus] *vehicle* that serves the public shall be provided access to a toll facility under the same rates, terms, and conditions as public transportation [buses] *vehicles*.

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

[(A) HIGH OCCUPANCY VEHICLE; HOV.—The term "high occupancy vehicle" or "HOV" means a vehicle with not fewer than 2 occupants.

[(B) INITIAL CONSTRUCTION.—

[(i) IN GENERAL.—The term "initial construction" means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

[(ii) EXCLUSIONS.—The term "initial construction" does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

[(C) OVER-THE-ROAD BUS.—The term "over-the-road bus" has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

[(D) PUBLIC AUTHORITY.—The term "public authority" means a State, interstate compact of States, or public entity designated by a State.

[(E) TOLL FACILITY.—The term "toll facility" means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed under this subsection.]

(10) INTEROPERABILITY OF ELECTRONIC TOLL COLLECTION.—All toll facilities on Federal-aid highways shall provide for the regional interoperability of electronic toll collection, including through technologies or business practices.

(11) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the requirements of this subsection, the Secretary may require the public authority to discontinue collecting tolls until the public authority and the

Secretary enter into an agreement for the public authority to achieve compliance with such requirements.

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

(A) FEDERAL PARTICIPATION.—The term "Federal participation" means the use of funds made available under this title.

(B) HIGH OCCUPANCY VEHICLE; HOV.—The term "high occupancy vehicle" or "HOV" means a vehicle with not fewer than 2 occupants.

(C) INITIAL CONSTRUCTION.—

(i) IN GENERAL.—The term "initial construction" means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

(ii) EXCLUSIONS.—The term "initial construction" does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

(D) OVER-THE-ROAD BUS.—The term "over-the-road bus" has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(E) PUBLIC AUTHORITY.—The term "public authority" means a State, interstate compact of States, or public entity designated by a State.

(F) PUBLIC TRANSPORTATION VEHICLE.—The term "public transportation vehicle" has the meaning given that term in section 166.

(G) TOLL FACILITY.—The term "toll facility" means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed or authorized to be tolled under this subsection.

(b) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which is a public road and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(c) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats and ferry terminal facilities, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System or on a public

transit ferry eligible under chapter 53 of title 49. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only.

(3)(A) The ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.

(B) Any Federal participation shall not involve the construction or purchase, for private ownership, of a ferry boat, ferry terminal facility, or other eligible project under this section.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State or other public entity, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, repair, debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise any territory of the United States) or between adjoining States or between a point in a State and a point in the Dominion of Canada. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise any territory of the United States, operations between a point in a State and a point in the Dominion of Canada, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.

(6) The ferry service shall be maintained in accordance with section 116.

(7)(A) No ferry boat or ferry terminal with Federal participation under this title may be sold, leased, or otherwise disposed of, except in accordance with part 200 of title 2, Code of Federal Regulations.

(B) The Federal share of any proceeds from a disposition referred to in subparagraph (A) shall be used for eligible purposes under this title.

§ 130. [Railway-highway crossings] *Railway crossings*

(a) [Subject to section 120 and subsection (b) of this section, the entire] *IN GENERAL.—The* cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, the relocation of highways to eliminate grade crossings, and projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of

the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, [then the entire] *the* cost of such relocation project[, subject to section 120 and subsection (b) of this section,] may be paid from sums apportioned in accordance with section 104 of this title.

[(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.]

(b) CLASSIFICATION.—

(1) IN GENERAL.—The construction of projects for the elimination of hazards at railway crossings represents a benefit to the railroad. The Secretary shall classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and shall set for each such classification a percentage of the total project cost that represent the benefit to the railroad or railroads for the purpose of determining the railroad's share of the total project cost. The Secretary shall determine the appropriate classification of each project.

(2) NONCASH CONTRIBUTIONS.—

(A) IN GENERAL.—Not more than 5 percent of the cost share described in paragraph (1) may be attributable to noncash contributions of materials and labor furnished by the railroad in connection with the construction of such project.

(B) REQUIREMENT.—The requirements under section 200.306 and 200.403(g) of title 2, Code of Federal Regulations (or successor regulations), shall apply to any noncash contributions under this subsection.

(3) TOTAL PROJECT COST.—For the purposes of this subsection, the determination of the railroad's share of the total project cost shall include environment, design, right-of-way, utility accommodation, and construction phases of the project.

(c) [Any railroad involved] *BENEFIT.—Any railroad involved* in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for [the net benefit] *the cost associated with the benefit* to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. [Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project.] If any such railroad fails to discharge such liability within a six-month period after completion

of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings.

[(e) FUNDS FOR PROTECTIVE DEVICES.—

[(1) IN GENERAL.—

[(A) SET ASIDE.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, for the elimination of hazards and the installation of protective devices at railway-highway crossings at least—

[(i) $225,000,000 for fiscal year 2016;

[(ii) $230,000,000 for fiscal year 2017;

[(iii) $235,000,000 for fiscal year 2018;

[(iv) $240,000,000 for fiscal year 2019; and

[(v) $245,000,000 for fiscal year 2020.

[(B) INSTALLATION OF PROTECTIVE DEVICES.—At least 1/2 of the funds set aside each fiscal year under subparagraph (A) shall be available for the installation of protective devices at railway-highway crossings.

[(C) OBLIGATION AVAILABILITY.—Sums set aside each fiscal year under subparagraph (A) shall be available for obligation in the same manner as funds apportioned under section 104(b)(1).

[(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

[(f) APPORTIONMENT.—

[(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A) as in effect on the day before the date of enactment of the MAP–21, and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

[(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

[(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.

[(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, not later than April 1, 2006, and every 2 years thereafter,, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway crossings program.]

(e) RAILWAY CROSSINGS.—

(1) ELIGIBLE ACTIVITIES.—Funds apportioned to a State under section 104(b)(7) may be obligated for the following:

(A) The elimination of hazards at railway-highway crossings, including technology or protective upgrades.

(B) Construction (including installation and replacement) of protective devices at railway-highway crossings.

(C) Infrastructure and noninfrastructure projects and strategies to prevent or reduce suicide or trespasser fatalities and injuries along railroad rights-of-way and at or near railway-highway crossings.

(D) Projects to mitigate any degradation in the level of access from a highway-grade crossing closure.

(E) Bicycle and pedestrian railway grade crossing improvements, including underpasses and overpasses.

(F) Projects eligible under section 22907(c)(5) of title 49, provided that amounts obligated under this subparagraph—

(i) shall be administered by the Secretary in accordance with such section as if such amounts were made available to carry out such section; and

(ii) may be used to pay up to 90 percent of the non-Federal share of the cost of a project carried out under such section.

(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for in-

stallation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

(f) FEDERAL SHARE.—Notwithstanding section 120, the Federal share payable on account of any project financed with funds made available to carry out subsection (e) shall be up to 90 percent of the cost thereof.

(g) REPORT.—

(1) STATE REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of the INVEST in America Act, and at least biennially thereafter, each State shall submit to the Secretary a report on the progress being made to implement the railway crossings program authorized by this section and the effectiveness of such improvements.

(B) CONTENTS.—Each State report under subparagraph (A) shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations.

(2) DEPARTMENTAL REPORT.—

(A) IN GENERAL.—Not later than 180 days after the deadline for the submission of a report under paragraph (1)(A), the Secretary shall publish on the website of the Department of Transportation a report on the progress being made by the State in implementing projects to improve railway-highway crossings.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the number of projects undertaken;

(ii) distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(iii) an analysis and evaluation of each State program;

(iv) the identification of any State found not to be in compliance with the schedule of improvements required by subsection (d); and

(v) recommendations for future implementation of the railway crossings program.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) $7,500.

(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.

(j) BICYCLE *AND PEDESTRIAN* SAFETY.—In carrying out projects under this section, a State shall take into account bicycle *and pedestrian* safety.

(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

(l) NATIONAL CROSSING INVENTORY.—

(1) INITIAL REPORTING OF CROSSING INFORMATION.—**[**Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State**]** *Not later than 6 months after a new railway crossing becomes operational, each State* shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

(2) PERIODIC UPDATING OF CROSSING INFORMATION.—**[**On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter**]** *On or before September 30 of each year*, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

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§ 133. Surface transportation [block grant] program

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation **[**block grant**]** program in accordance with this section to provide flexible funding to address State and local transportation needs.

(b) ELIGIBLE PROJECTS.—Funds apportioned to a State under section 104(b)(2) for the surface transportation [block grant] program may be obligated for the following:

(1) Construction of—

(A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;

(B) ferry boats and terminal facilities eligible for funding under section 129(c);

(C) transit capital projects eligible for assistance under chapter 53 of title 49;

(D) infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment;

(E) truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note); and

(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA–LU (23 U.S.C. 101 note).

(2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs.

(3) Environmental measures eligible under sections 119(g), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(4) Highway and transit safety infrastructure improvements and programs, including [railway-highway grade crossings] *projects eligible under section 130 and installation of safety barriers and nets on bridges*.

(5) Fringe and corridor parking facilities and programs in accordance with section 137 and carpool projects in accordance with section 146.

(6) [Recreational] *Transportation alternatives projects eligible under subsection (h), recreational* trails projects eligible for funding under section 206, pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the safe routes to school program under section [1404 of SAFETEA–LU (23 U.S.C. 402 note)] *211*.

(7) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

(8) Development and implementation of a State asset management plan for the National Highway System and a performance-based management program for other public roads.

(9) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.

(10) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of this title.

(11) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.

(12) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

(13) At the request of a State, and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

(14) The creation and operation by a State of an office to assist in the design, implementation, and oversight of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.

(15) Any type of project eligible under this section as in effect on the day before the date of enactment of the FAST Act, including projects described under section 101(a)(29) as in effect on such day.

(16) Protective features (including natural infrastructure and vegetation control and clearance) to enhance the resilience of a transportation facility otherwise eligible for assistance under this section.

(17) Projects to reduce greenhouse gas emissions eligible under section 171, including the installation of electric vehicle charging infrastructure.

(18) Projects and strategies to reduce vehicle-caused wildlife mortality related to, or to restore and maintain connectivity among terrestrial or aquatic habitats affected by, a transportation facility otherwise eligible for assistance under this section.

(19) A surface transportation project carried out in accordance with the national travel and tourism infrastructure strategic plan under section 1431(e) of the FAST Act (49 U.S.C. 301 note).

(c) LOCATION OF PROJECTS.—A surface transportation **[**block grant**]** *program* project may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—

(1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);

(2) for a project described in paragraphs (4) through (11) of subsection (b);

[(3) for a project described in section 101(a)(29), as in effect on the day before the date of enactment of the FAST Act; and]

(3) for a project described in—

(A) subsection (h); or

(B) section 101(a)(29), as in effect on the day before the date of enactment of the FAST Act;

(4) for a project described in section 5308 of title 49; and

[(4)] *(5)* as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

(1) CALCULATION.—Of the funds apportioned to a State *each fiscal year* under section 104(b)(2) (after [the reservation of] *setting aside* funds under subsection (h))—

(A) [the percentage specified in paragraph (6) for a fiscal year] *57 percent for fiscal year 2022, 58 percent for fiscal year 2023, 59 percent for fiscal year 2024, and 60 percent for fiscal year 2025* shall be obligated under this section, in proportion to their relative shares of the population of the State—

(i) in urbanized areas of the State with an urbanized area population [of over] *greater than* 200,000;

[(ii) in areas of the State other than urban areas with a population greater than 5,000; and

[(iii) in other areas of the State; and]

(ii) in urbanized areas of the State with an urbanized area population greater than 49,999 and less than 200,001;

(iii) in urban areas of the State with a population greater than 4,999 and less than 50,000; and

(iv) in other areas of the State with a population less than 5,000; and

(B) the remainder may be obligated in any area of the State.

(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

[(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(iii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.]

(3) LOCAL COORDINATION AND CONSULTATION.—

(A) COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(ii), a State shall—

(i) establish a process to coordinate with all metropolitan planning organizations in the State that represent an urbanized area described in such paragraph; and

(ii) describe how funds described under paragraph (1)(A)(ii) will be allocated equitably among such urbanized areas during the period of fiscal years 2022 through 2025.

(B) JOINT RESPONSIBILITY.—Each State and the Secretary shall jointly ensure compliance with subparagraph (A).

(C) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of clauses (iii) and (iv) of paragraph (1)(A), before obligating funding attributed to an area with a population less than 50,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.

(4) DISTRIBUTION AMONG URBANIZED AREAS OF [OVER 200,000] *GREATER THAN 200,000* POPULATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

[(6) PERCENTAGE.—The percentage referred to in paragraph (1)(A) is—

[(A) for fiscal year 2016, 51 percent;

[(B) for fiscal year 2017, 52 percent;

[(C) for fiscal year 2018, 53 percent;

[(D) for fiscal year 2019, 54 percent; and

[(E) for fiscal year 2020, 55 percent.]

(6) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The State and all metropolitan planning organizations in the State that represent an urbanized area with a population of greater than 200,000 shall jointly establish a program to improve the ability of applicants to deliver projects under this subsection in an efficient and expeditious manner and reduce the period of time between the selection of the project and the obligation of funds for the project by providing—

(i) technical assistance and training to applicants for projects under this subsection; and

(ii) funding for 1 or more full-time State employee positions to administer this subsection.

(B) ELIGIBLE FUNDS.—To carry out this paragraph—

(i) a State shall set aside an amount equal to 1 percent of the funds available under paragraph (1)(A)(i); and

(ii) at the request of an eligible metropolitan planning organization, the State and metropolitan planning organization may jointly agree to use additional funds available under paragraph (1)(A)(i).

(C) USE OF FUNDS.—Amounts used under this paragraph may be expended—

(i) directly by the State; or

(ii) through contracts with State agencies, private entities, or nonprofit organizations.

(e) OBLIGATION AUTHORITY.—

(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of [over 200,000] *greater than 200,000* individuals under subsection (d) funds apportioned to the State under section 104(b)(2) shall make available during the period of fiscal years [2016 through 2020] *2022 through 2025* an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

[(f) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

[(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term "off-system bridge" means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

[(2) SPECIAL RULE.—

[(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2013 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (b)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.

[(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State

if the Secretary determines that the State has inadequate needs to justify the expenditure.

[(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

[(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

[(B) that crediting shall be conducted in accordance with procedures established by the Secretary.]

(f) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term "off-system bridge" means a bridge located on a public road, other than a bridge on a Federal-aid highway.

(2) SPECIAL RULE.—

(A) SET ASIDE.—Of the amounts apportioned to a State for each fiscal year under this section other than the amounts described in subparagraph (C), the State shall obligate for activities described in subsection (b)(2) (as in effect on the day before the date of enactment of the FAST Act) for off-system bridges an amount that is not less than 20 percent of the amounts available to such State under this section in fiscal year 2020, not including the amounts described in subparagraph (C).

(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

(C) LIMITATIONS.—The following amounts shall not be used for the purposes of meeting the requirements of subparagraph (A):

(i) Amounts described in section 133(d)(1)(A).

(ii) Amounts set aside under section 133(h).

(iii) Amounts described in section 505(a).

(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is certified by the State to have been carried out in accordance with all standards applicable to such projects under

this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

(B) that crediting shall be conducted in accordance with procedures established by the Secretary.

(g) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—

(1) SPECIAL RULE.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under ⟦subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2020⟧ *subsection (d)(1)(A)(iv) for each fiscal year* may be obligated on roads functionally classified as *rural* minor collectors *or local roads, or on critical rural freight corridors designated under section 167(e)*.

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.

⟦(h) STP SET-ASIDE.—

⟦(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(2) for each fiscal year, the Secretary shall reserve an amount such that—

⟦(A) the Secretary reserves a total under this subsection of—

⟦(i) $835,000,000 for each of fiscal years 2016 and 2017; and

⟦(ii) $850,000,000 for each of fiscal years 2018 through 2020; and

⟦(B) the State's share of that total is determined by multiplying the amount under subparagraph (A) by the ratio that—

⟦(i) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of MAP–21; bears to

⟦(ii) the total amount of funds apportioned to all States for the transportation enhancements program for fiscal year 2009.

⟦(2) ALLOCATION WITHIN A STATE.—Funds reserved for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

⟦(A) for each fiscal year, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 50 percent; and

⟦(B) the following provisions shall not apply:

[(i) Paragraph (3) of subsection (d).

[(ii) Subsection (e).

[(3) ELIGIBLE PROJECTS.—Funds reserved under this subsection may be obligated for projects or activities described in section 101(a)(29) or 213, as such provisions were in effect on the day before the date of enactment of the FAST Act.

[(4) ACCESS TO FUNDS.—

[(A) IN GENERAL.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State.

[(B) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term "eligible entity" means—

[(i) a local government;

[(ii) a regional transportation authority;

[(iii) a transit agency;

[(iv) a natural resource or public land agency;

[(v) a school district, local education agency, or school;

[(vi) a tribal government;

[(vii) a nonprofit entity responsible for the administration of local transportation safety programs; and

[(viii) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

[(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—For each fiscal year, a State shall—

[(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP–21, for projects relating to recreational trails under section 206;

[(B) return 1 percent of those funds to the Secretary for the administration of that program; and

[(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described in subsection (d)(3)(A) of that section.

[(6) STATE FLEXIBILITY.—

[(A) RECREATIONAL TRAILS.—A State may opt out of the recreational trails program under paragraph (5) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

[(B) LARGE URBANIZED AREAS.—A metropolitan planning area may use not to exceed 50 percent of the funds reserved under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

[(7) ANNUAL REPORTS.—

[(A) IN GENERAL.—Each State or metropolitan planning organization responsible for carrying out the requirements of this subsection shall submit to the Secretary an annual report that describes—

[(i) the number of project applications received for each fiscal year, including—

[(I) the aggregate cost of the projects for which applications are received; and

[(II) the types of projects to be carried out, expressed as percentages of the total apportionment of the State under this subsection; and

[(ii) the number of projects selected for funding for each fiscal year, including the aggregate cost and location of projects selected.

[(B) PUBLIC AVAILABILITY.—The Secretary shall make available to the public, in a user-friendly format on the Web site of the Department of Transportation, a copy of each annual report submitted under subparagraph (A).]

(h) TRANSPORTATION ALTERNATIVES PROGRAM SET-ASIDE.—

(1) SET ASIDE.—For each fiscal year, of the total funds apportioned to all States under section 104(b)(2) for a fiscal year, the Secretary shall set aside an amount such that—

(A) the Secretary sets aside a total amount under this subsection for a fiscal year equal to 10 percent of such total funds; and

(B) the State's share of the amount set aside under subparagraph (A) is determined by multiplying the amount set aside under subparagraph (A) by the ratio that—

(i) the amount apportioned to the State for the transportation enhancement program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of MAP–21; bears to

(ii) the total amount of funds apportioned to all States for the transportation enhancements program for fiscal year 2009.

(2) ALLOCATION WITHIN A STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds set aside for a State under paragraph (1) shall be obligated within that State in the manner described in subsections (d) and (e), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

(i) for each fiscal year, the percentage referred to in paragraph (1)(A) of subsection (d) shall be deemed to be 66 percent; and

(ii) paragraph (3) of subsection (d) shall not apply.

(B) LOCAL CONTROL.—

(i) IN GENERAL.—A State may make available up to 100 percent of the funds set aside under paragraph (1) to the entities described in subclause (I) if the State submits to the Secretary, and the Secretary approves, a plan that describes—

(I) how such funds shall be made available to metropolitan planning organizations, regional transportation planning organizations, counties, or other regional transportation authorities;

(II) how the entities described in subclause (I) shall select projects for funding and how such entities shall report selected projects to the State;

(III) the legal, financial, and technical capacity of such entities; and

(IV) the procedures in place to ensure such entities comply with the requirements of this title.

(ii) REQUIREMENT.—A State that makes funding available under a plan approved under this subparagraph shall make available an equivalent amount of obligation authority to an entity described in clause (i)(I) to whom funds are made available under this subparagraph.

(3) ELIGIBLE PROJECTS.—Funds set aside under this subsection may be obligated for any of the following projects or activities:

(A) Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(B) Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for nondrivers, including children, older adults, and individuals with disabilities to access daily needs.

(C) Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.

(D) Construction of turnouts, overlooks, and viewing areas.

(E) Community improvement activities, including—

(i) inventory, control, or removal of outdoor advertising;

(ii) historic preservation and rehabilitation of historic transportation facilities;

(iii) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, facilitate wildfire control, and provide erosion control; and

(iv) archaeological activities relating to impacts from implementation of a transportation project eligible under this title.

(F) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 328(a) and 329.

(G) Projects and strategies to reduce vehicle-caused wildlife mortality related to, or to restore and maintain connectivity among terrestrial or aquatic habitats affected by, a transportation facility otherwise eligible for assistance under this subsection.

(H) The recreational trails program under section 206.

(I) The safe routes to school program under section 211.

(J) Activities in furtherance of a vulnerable road user assessment described in section 148.

(K) Any other projects or activities described in section 101(a)(29) or section 213, as such sections were in effect on the day before the date of enactment of the FAST Act (Public Law 114–94).

(4) ACCESS TO FUNDS.—

(A) IN GENERAL.—A State, metropolitan planning organization required to obligate funds in accordance with paragraph (2)(A), or an entity required to obligate funds in accordance with paragraph (2)(B) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State.

(B) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term "eligible entity" means—

(i) a local government, including a county or multi-county special district;

(ii) a regional transportation authority;

(iii) a transit agency;

(iv) a natural resource or public land agency;

(v) a school district, local education agency, or school;

(vi) a tribal government;

(vii) a metropolitan planning organization that serves an urbanized area with a population of 200,000 or fewer;

(viii) a nonprofit organization carrying out activities related to transportation;

(ix) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization that serves an urbanized area with a population of over 200,000 or a State agency) that the

State determines to be eligible, consistent with the goals of this subsection; and

(x) a State, at the request of any entity listed in clauses (i) through (ix).

(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—

(A) IN GENERAL.—For each fiscal year, a State shall—

(i) obligate an amount of funds set aside under this subsection equal to 175 percent of the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP–21, for projects relating to recreational trails under section 206;

(ii) return 1 percent of the funds described in clause (i) to the Secretary for the administration of such program; and

(iii) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described in subsection (d)(3)(A) of such section.

(B) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under this paragraph if the Governor of the State notifies the Secretary not later than 30 days prior to the date on which an apportionment is made under section 104 for any fiscal year.

(6) IMPROVING ACCESSIBILITY AND EFFICIENCY.—

(A) IN GENERAL.—A State may use an amount equal to not more than 5 percent of the funds set aside for the State under this subsection, after allocating funds in accordance with paragraph (2)(A), to improve the ability of applicants to access funding for projects under this subsection in an efficient and expeditious manner by providing—

(i) to applicants for projects under this subsection application assistance, technical assistance, and assistance in reducing the period of time between the selection of the project and the obligation of funds for the project; and

(ii) funding for 1 or more full-time State employee positions to administer this subsection.

(B) USE OF FUNDS.—Amounts used under subparagraph (A) may be expended—

(i) directly by the State; or

(ii) through contracts with State agencies, private entities, or nonprofit entities.

(7) FEDERAL SHARE.—

(A) FLEXIBLE MATCH.—

(i) IN GENERAL.—Notwithstanding section 120—

(I) the non-Federal share for a project under this subsection may be calculated on a project, multiple-project, or program basis; and

(II) the Federal share of the cost of an individual project in this subsection may be up to 100 percent.

(ii) AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal share of the total cost of all projects for which funds are obligated under this subsection in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

(iii) REQUIREMENT.—This subparagraph shall only apply to a State if such State has adequate financial controls, as certified by the Secretary, to account for the average annual non-Federal share under this subparagraph.

(B) SAFETY PROJECTS.—Notwithstanding section 120, funds made available to carry out section 148 may be credited toward the non-Federal share of the costs of a project under this subsection if the project—

(i) is a project described in section 148(e)(1); and

(ii) is consistent with the State strategic highway safety plan (as defined in section 148(a)).

(8) FLEXIBILITY.—

(A) STATE AUTHORITY.—

(i) IN GENERAL.—A State may use not more than 50 percent of the funds set aside under this subsection that are available for obligation in any area of the State (suballocated consistent with the requirements of subsection (d)(1)(B)) for any purpose eligible under subsection (b).

(ii) RESTRICTION.—Funds may be used as described in clause (i) only if the State demonstrates to the Secretary—

(I) that the State held a competition in compliance with the requirements of this subsection in such form as the Secretary determines appropriate;

(II) that the State offered technical assistance to all eligible entities and provided such assistance upon request by an eligible entity; and

(III) that there were not sufficient suitable applications from eligible entities to use the funds described in clause (i).

(B) MPO AUTHORITY.—

(i) IN GENERAL.—A metropolitan planning organization that represents an urbanized area with a population of greater than 200,000 may use not more than 50 percent of the funds set aside under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

(ii) RESTRICTION.—Funds may be used as described in clause (i) only if the Secretary certifies that the metropolitan planning organization—

(I) held a competition in compliance with the requirements of this subsection in such form as the Secretary determines appropriate; and

(II) demonstrates that there were not sufficient suitable applications from eligible entities to use the funds described in clause (i).

(9) ANNUAL REPORTS.—

(A) IN GENERAL.—Each State or metropolitan planning organization responsible for carrying out the requirements of this subsection shall submit to the Secretary an annual report that describes—

(i) the number of project applications received for each fiscal year, including—

(I) the aggregate cost of the projects for which applications are received; and

(II) the types of projects to be carried out, expressed as percentages of the total apportionment of the State under this subsection; and

(ii) the list of each project selected for funding for each fiscal year, including specifying the fiscal year for which the project was selected, the fiscal year in which the project is anticipated to be funded, the recipient, the location, the type, and a brief description.

(B) PUBLIC AVAILABILITY.—The Secretary shall make available to the public, in a user-friendly format on the website of the Department of Transportation, a copy of each annual report submitted under subparagraph (A).

(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (h)(5)) shall be treated as projects on a Federal-aid highway under this chapter.

§ 134. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight, foster economic growth and development within and between States and urbanized areas, and take into consideration ⟦resiliency needs while minimizing transportation-related fuel consumption and air pollution⟧ *resilience and climate change adaptation needs while reducing transportation-related fuel consumption, air pollution, and greenhouse gas emissions* through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by

agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

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

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

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 135(m).

(6) STIP.—The term "STIP" means a statewide transportation improvement program developed by a State under section 135(g).

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

[(7)**]** *(8)* URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

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

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(4) CONSIDERATION.—In developing the plans and TIPs, metropolitan planning organizations shall consider direct and indirect emissions of greenhouse gases.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

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

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—[Not later than 2 years after the date of enactment of MAP-21, each] *Each* metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) CONSIDERATIONS.—

(i) EQUITABLE AND PROPORTIONAL REPRESENTATION.—In designating officials or representatives under paragraph (2), the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(ii) SAVINGS CLAUSE.—Nothing in this paragraph shall require a metropolitan planning organization in existence on the date of enactment of this subparagraph to be restructured.

(iii) REDESIGNATION.—Notwithstanding clause (ii), the requirements of this paragraph shall apply to any metropolitan planning organization redesignated under paragraph (6).

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

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

(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of ⟦paragraph (2)⟧ *paragraphs (2) or (3)(D)* without undertaking a redesignation.

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within ⟦an existing metropolitan planning area⟧ *an urbanized area* only if the Governor and the existing metropolitan planning organization determine that the size and complexity of ⟦the existing metropolitan planning area⟧ *the area* make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

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

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

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

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

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

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

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

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within ❲a metropolitan area❳ *an urbanized area* or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan

planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE [MPOS] *METROPOLITAN PLANNING AREAS*.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, tourism, natural disaster risk reduction, *emergency response and evacuation, climate change adaptation and resilience,* environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under chapter 53 of title 49;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204.

(4) COORDINATION BETWEEN MPOS.—

(A) IN GENERAL.—If more than 1 metropolitan planning organization is designated within an urbanized area under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting transportation demand.

(B) SAVINGS CLAUSE.—Nothing in this paragraph requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;]

(E) protect and enhance the environment, promote energy conservation, reduce greenhouse gas emissions, improve the quality of life and public health, and promote consistency between transportation improvements and State and local planned growth and economic development patterns, including housing and land use patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system;

(I) improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater*, sea level rise, extreme weather, and climate change* impacts of surface transportation; [and]

(J) facilitate emergency management, response, and evacuation and hazard mitigation;

(K) improve the level of transportation system access;

(L) support inclusive zoning policies and land use planning practices that incentivize affordable, elastic, and diverse housing supply, facilitate long-term economic growth by improving the accessibility of housing to jobs, and prevent high housing costs from displacing economically disadvantaged households; and

[(J)] *(M)* enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

[(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of this title and the general purposes described in section 5301 of title 49.]

(A) IN GENERAL.—Through the use of a performance-based approach, transportation investment decisions made as a part of the metropolitan transportation planning process shall support the national goals described in section 150(b), the achievement of metropolitan and statewide tar-

gets established under section 150(d), the improvement of transportation system access (consistent with section 150(f)), and the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed under chapter 53 of title 49 by providers of public transportation, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

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

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

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

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to *reduce greenhouse gas emissions and* restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

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

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters *and climate change*.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities including consideration of the role that intercity buses may play in reducing congestion, pollution,

greenhouse gas emissions, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(I) CLIMATE CHANGE AND RESILIENCE.—

(i) IN GENERAL.—The transportation planning process shall assess strategies to reduce the climate change impacts of the surface transportation system and conduct a vulnerability assessment to identify opportunities to enhance the resilience of the surface transportation system and ensure the efficient use of Federal resources.

(ii) CLIMATE CHANGE MITIGATION AND IMPACTS.—A long-range transportation plan shall—

(I) identify investments and strategies to reduce transportation-related sources of greenhouse gas emissions per capita;

(II) identify investments and strategies to manage transportation demand and increase the rates of public transportation ridership, walking, bicycling, and carpools; and

(III) recommend zoning and other land use policies that would support infill, transit-oriented development, and mixed use development.

(iii) VULNERABILITY ASSESSMENT.—A long-range transportation plan shall incorporate a vulnerability assessment that—

(I) includes a risk-based assessment of vulnerabilities of critical transportation assets and systems to covered events (as such term is defined in section 124);

(II) considers, as applicable, the risk management analysis in the State's asset management plan developed pursuant to section 119, and the State's evaluation of reasonable alternatives to repeatedly damaged facilities conducted under part 667 of title 23, Code of Federal Regulations;

(III) identifies evacuation routes, assesses the ability of any such routes to provide safe passage for evacuation and emergency response during an emergency event, and identifies any improvements or redundant facilities necessary to adequately facilitate safe passage;

(IV) describes the metropolitan planning organization's adaptation and resilience improvement strategies that will inform the transportation investment decisions of the metropolitan planning organization; and

(V) is consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165).

(iv) CONSULTATION.—The assessment described in this subparagraph shall be developed in consultation with, as appropriate, State, local, and Tribal officials responsible for land use, housing, resilience, hazard mitigation, and emergency management.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vi) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c), metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

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

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

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

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

(B) ISSUES.—The consultation shall involve, as appropriate, comparison of transportation plans to other relevant plans, including, if available—

(i) State conservation plans or maps; and

(ii) inventories of natural or historic resources.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

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

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

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

[(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

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

(C) METHODS.—

(i) IN GENERAL.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(I) hold any public meetings at convenient and accessible locations and times;

(II) employ visualization techniques to describe plans; and

(III) make public information available in electronically accessible format and means, such as

the internet, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(ii) ADDITIONAL METHODS.—In addition to the methods described in clause (i), in carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(I) use virtual public involvement, social media, and other web-based tools to encourage public participation and solicit public feedback; and

(II) use other methods, as appropriate, to further encourage public participation of historically underrepresented individuals in the transportation planning process.

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

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

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

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

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

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

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively

develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

(i) updated at least once every 4 years; and

(ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed [Federally] *federally* supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

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

(i) demonstrates how the TIP can be implemented;

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

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

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

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) [PERFORMANCE TARGET ACHIEVEMENT] *PERFORMANCE MANAGEMENT*.—[The transportation improvement program]—

(i) IN GENERAL.—The TIP shall include, to the maximum extent practicable, a description of the anticipated effect of the [transportation improvement program] *TIP* toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(ii) TRANSPORTATION MANAGEMENT AREAS.—For metropolitan planning areas that represent an urbanized area designated as a transportation management area under subsection (k), the TIP shall include—

(I) a discussion of the anticipated effect of the TIP toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to such performance targets; and

(II) a description of how the TIP would improve the overall level of transportation system access, consistent with section 150(f).

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the

area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

(B) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the [transportation improvement program] *TIP*.

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

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

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

(E) RESILIENCE PROJECTS.—The TIP shall—

(i) identify projects that address the vulnerabilities identified by the assessment in subsection (i)(2)(I)(iii); and

(ii) describe how each project identified under clause (i) would improve the resilience of the transportation system.

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

(5) SELECTION OF PROJECTS.—

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

(i) by—

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

(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included

in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

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

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

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

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section ⟦shall address congestion management⟧ *shall address*—

(i) congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing trans-

portation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction (including intercity bus operators, employer-based commuting programs such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies[.]*; and*

(ii) the overall level of transportation system access for various modes of travel within the metropolitan planning area, including the level of access for economically disadvantaged communities, consistent with section 150(f), that is based on a cooperatively developed and implemented metropolitan-wide strategy, assessing both new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and nonprofit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All [Federally] *federally* funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated

for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law[; and]*;*

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

(iii) the TIP approved under clause (ii) improves the level of transportation system access, consistent with section 150(f).

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this

section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than [5 years after the date of enactment of the MAP–21] *2 years after the date of enactment of the INVEST in America Act, and every 2 years thereafter*, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section [and whether metropolitan planning organizations are developing meaningful performance targets; and]*;*

[(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the requirements of this section.]

(D) a listing of all metropolitan planning organizations that are establishing performance targets and whether such performance targets established by the metropolitan planning organization are meaningful or regressive (as defined in section 150(d)(3)(B)); and

(E) the progress of implementing the measure established under section 150(f).

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the

carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

(p) FUNDING.—Funds apportioned under ⟦paragraphs (5)(D) and (6) of section 104(b)⟧ *section 104(b)(6)* of this title or section 5305(g) of title 49 shall be available to carry out this section.

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

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term "Bi-State MPO Region" has the meaning given the term "region" in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96–551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State MPO Region shall be treated as—

(A) a metropolitan planning organization;

(B) a transportation management area under subsection (k); and

(C) an urbanized area, which is comprised of a population of 145,000 in the State of California and a population of 65,000 in the State of Nevada.

(3) SUBALLOCATED FUNDING.—

(A) PLANNING.—In determining the amounts under subparagraph (A) of section 133(d)(1) that shall be obligated for a fiscal year in the States of California and Nevada under clauses (i), (ii), and (iii) of that subparagraph, the Secretary shall, for each of those States—

(i) calculate the population under each of those clauses;

(ii) decrease the amount under section 133(d)(1)(A)(iii) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State; and

(iii) increase the amount under section 133(d)(1)(A)(i) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State.

(B) STBGP SET ASIDE.—In determining the amounts under paragraph (2) of section 133(h) that shall be obligated for a fiscal year in the States of California and Nevada, the Secretary shall, for the purpose of that subsection, calculate the populations for each of those States in a manner consistent with subparagraph (A).

§ 135. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134, to accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a [statewide transportation improvement program] *STIP* for all areas of the State.

(2) CONTENTS.—[The statewide transportation plan and the]

(A) IN GENERAL.—The statewide transportation plan and the [transportation improvement program] *STIP* developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter van pool providers) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(B) CONSIDERATION.—In developing the statewide transportation plans and STIPs, States shall consider direct and indirect emissions of greenhouse gases.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the [transportation improvement program] *STIP* shall provide for consideration of all modes of transportation and the policies stated in section 134(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in

support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

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

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, *reduce greenhouse gas emissions,* improve the quality of life *and public health*, and promote consistency between transportation improvements and State and local planned growth and economic development patterns*, including housing and land use patterns*;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system;

(I) improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater*, sea level rise, extreme weather, and climate change* impacts of surface transportation; [and]

(J) facilitate emergency management, response, and evacuation and hazard mitigation;

(K) improve the level of transportation system access;

(L) support inclusive zoning policies and land use planning practices that incentivize affordable, elastic, and diverse housing supply, facilitate long-term economic growth by improving the accessibility of housing to jobs, and prevent high housing costs from displacing economically disadvantaged households; and

[(J)] *(M)* enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

[(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-

making to support the national goals described in section 150(b) of this title and the general purposes described in section 5301 of title 49.]

(A) IN GENERAL.—Through the use of a performance-based approach, transportation investment decisions made as a part of the statewide transportation planning process shall support—

(i) the national goals described in section 150(b);

(ii) the consideration of transportation system access (consistent with section 150(f));

(iii) the achievement of statewide targets established under section 150(d); and

(iv) the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In areas not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to chapter 53 of title 49 by providers of public transportation in areas not represented by a metropolitan planning organization required as part of a performance-based program.

(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and [statewide transportation improvement program] *STIP*.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title,

chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a [statewide transportation improvement program] *STIP*, a project or strategy, or the certification of a planning process.

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

(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m);

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

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

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

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

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, *air quality, public health, housing, transportation, resilience, hazard miti-*

gation, emergency management, and historic preservation.

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

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve the comparison of transportation plans to other relevant plans and inventories, including, if available—

(I) State and tribal conservation plans or maps; and

(II) inventories of natural or historic resources.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

(i) nonmetropolitan local elected officials or, if applicable, through regional transportation planning organizations described in subsection (m), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cashout program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—[In carrying out]

(i) IN GENERAL.—in carrying out subparagraph (A), the State shall, to the maximum extent practicable—

[(i)] *(I)* develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

[(ii)] *(II)* hold any public meetings at convenient and accessible locations and times;

[(iii)] *(III)* employ visualization techniques to describe plans; and

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

(ii) ADDITIONAL METHODS.—In addition to the methods described in clause (i), in carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(I) use virtual public involvement, social media, and other web-based tools to encourage public participation and solicit public feedback; and

(II) use other methods, as appropriate, to further encourage public participation of historically underrepresented individuals in the transportation planning process.

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to *reduce greenhouse gas emissions and* restore and maintain the environmental functions affected by the plan.

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

(5) FINANCIAL PLAN.—The statewide transportation plan may include—

(A) a financial plan that—

(i) demonstrates how the adopted statewide transportation plan can be implemented;

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

(iii) recommends any additional financing strategies for needed projects and programs; and

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

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan shall include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system, including consideration of the role that intercity buses may play in reducing congestion, pollution, *greenhouse gas emissions,* and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(10) CLIMATE CHANGE AND RESILIENCE.—

(A) IN GENERAL.—The transportation planning process shall assess strategies to reduce the climate change impacts of the surface transportation system and conduct a vulnerability assessment to identify opportunities to enhance the resilience of the surface transportation system and ensure the efficient use of Federal resources.

(B) CLIMATE CHANGE MITIGATION AND IMPACTS.—A long-range transportation plan shall—

(i) identify investments and strategies to reduce transportation-related sources of greenhouse gas emissions per capita;

(ii) identify investments and strategies to manage transportation demand and increase the rates of public transportation ridership, walking, bicycling, and carpools; and

(iii) recommend zoning and other land use policies that would support infill, transit-oriented development, and mixed use development.

(C) VULNERABILITY ASSESSMENT.—A long-range transportation plan shall incorporate a vulnerability assessment that—

(i) includes a risk-based assessment of vulnerabilities of critical transportation assets and systems to covered events (as such term is defined in section 124);

(ii) considers, as applicable, the risk management analysis in the State's asset management plan developed pursuant to section 119, and the State's evaluation of reasonable alternatives to repeatedly damaged facilities conducted under part 667 of title 23, Code of Federal Regulations;

(iii) identifies evacuation routes, assesses the ability of any such routes to provide safe passage for evacuation and emergency response during an emergency event, and identifies any improvements or redundant facilities necessary to adequately facilitate safe passage;

(iv) describes the States's adaptation and resilience improvement strategies that will inform the transportation investment decisions of the State; and

(v) is consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165).

(D) CONSULTATION.—The assessment described in this subparagraph shall be developed in consultation with, as appropriate, State, local, and Tribal officials responsible for land use, housing, resilience, hazard mitigation, and emergency management.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—Each State shall develop a [statewide transportation improvement program] *STIP* for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the specific consultation process in the State.

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

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus [operators),,] *operators),* providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) [PERFORMANCE TARGET ACHIEVEMENT] *PERFORMANCE MANAGEMENT*.—A [statewide transportation improvement program] *STIP* [shall include, to the maximum extent practicable, a discussion] *shall include—*

(A) a discussion of the anticipated effect of the [statewide transportation improvement program] *STIP* toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets[.]*; and*

(B) a consideration of how the STIP impacts the overall level of transportation system access, consistent with section 150(f).

(5) INCLUDED PROJECTS.—

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

(B) LISTING OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) shall be consistent with the funding categories identified in each [metropolitan transportation improvement program] *TIP*.

(iii) RESILIENCE PROJECTS.—The STIP shall—

(I) identify projects that address the vulnerabilities identified by the assessment in subsection (i)(10)(B); and

(II) describe how each project identified under subclause (I) would improve the resilience of the transportation system.

(C) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the [transportation improvement program] *STIP*.

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

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

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

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

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

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

(F) FINANCIAL PLAN.—

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

(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

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

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

(H) PRIORITIES.—The [transportation improvement program] *STIP* shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved [transportation improvement program] *STIP* (excluding projects carried out on the Na-

tional Highway System [and projects carried out under the bridge program or the Interstate maintenance program] under this title or under sections 5310 and 5311 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System [or under the bridge program or the Interstate maintenance program] under this title or under sections [5310, 5311, 5316, and 5317] *5310 and 5311* of title 49 shall be selected, from the approved [statewide transportation improvement program] *STIP*, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

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

(8) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which [statewide transportation plans and programs] *statewide transportation plans and STIPs* are developed is consistent with this section and section 134.

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

(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—[Not later than 5 years after the date of enactment of the MAP–21,] *Not less frequently*

than once every 4 years, the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(i) FUNDING.—Funds apportioned under ⟦paragraphs (5)(D) and (6) of section 104(b)⟧ *section 104(b)(6)* of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

(j) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

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

(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(m) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and des-

ignate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and [transportation improvement programs] *STIPs*, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) STRUCTURE.—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

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

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

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

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

(D) providing technical assistance to local officials;

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

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

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

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

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

* * * * * * *

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

[(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed 1/2 of 1 percent of funds apportioned to a State for the surface transportation block grant program under section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary.**]**

(b) WORKFORCE TRAINING AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of Labor and any other department or agency of the Government, State agency, authority, association, institution, Indian Tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes.

(2) STATE RESPONSIBILITIES.—A State department of transportation participating in the program under this subsection shall—

(A) develop an annual workforce plan that identifies immediate and anticipated workforce gaps and underrepresentation of women and minorities and a detailed plan to fill such gaps and address such underrepresentation;

(B) establish an annual workforce development compact with the State workforce development board and appropriate agencies to provide a coordinated approach to workforce training, job placement, and identification of training and skill development program needs, which shall be coordinated to the extent practical with an institution or agency, such as a State workforce development board under section 101 of the Workforce Innovation and Opportunities Act (29 U.S.C. 3111), that has established skills training, recruitment, and placement resources; and

(C) demonstrate program outcomes, including—

(i) impact on areas with transportation workforce shortages;

(ii) diversity of training participants;

(iii) number and percentage of participants obtaining certifications or credentials required for specific types of employment;

(iv) employment outcome, including job placement and job retention rates and earnings, using performance metrics established in consultation with the Secretary of Labor and consistent with metrics used by programs under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.); and

(v) to the extent practical, evidence that the program did not preclude workers that participate in training or registered apprenticeship activities under the program from being referred to, or hired on, projects funded under this chapter.

(3) FUNDING.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 in each fiscal year, for the administration of this subsection. Such sums shall remain available until expended.

(4) NONAPPLICABILITY OF TITLE 41.—Subsections (b) through (d) of section 6101 of title 41 shall not apply to contracts and agreements made under the authority granted to the Secretary under this subsection.

(5) USE OF SURFACE TRANSPORTATION PROGRAM AND NATIONAL HIGHWAY PERFORMANCE PROGRAM FUNDS.—Notwithstanding any other provision of law, not to exceed 1/2 of 1 percent of funds apportioned to a State under paragraph (1) or (2) of section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 3106 of title 41.

(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

* * * * * * *

§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating buses on Federal-aid highways for the transportation of passengers, so as to increase the traffic capacity of the Federal-aid highways for the movement of persons, the Secretary may approve as a project on any Federal-aid highway the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities, which may include electric vehicle charging stations or natural gas vehicle refueling stations, to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

(2) In addition to the projects under paragraph (1), the Secretary may approve payment from sums apportioned under section 104(b)(2) for carrying out any capital transit project eligible for assistance under chapter 53 of title 49, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.

(b) Sums apportioned in accordance with section 104(b)(1) shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid highway for payment from sums apportioned under section 104(b) modifications to existing highways eligible under the program that is the source of the funds on such highway necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.

(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Projects authorized by subsection (a)(2) shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the surface transportation [block grant] program, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.

(g) The provision of assistance under subsection (a)(2) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any non-supervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(h) Funds available for expenditure to carry out the purposes of subsection (a)(2) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to chapter 53 of title 49.

(i) The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out subsection (a)(2) of this section.

§ 143. Highway use tax evasion projects

(a) STATE DEFINED.—In this section, the term "State" means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) FUNDING.—

(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary may deduct such sums as are necessary, not to exceed $4,000,000 for each of fiscal years 2016 through 2020, to carry out this section.

(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.

(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Except as otherwise provided in this section, the Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts;

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;

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

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

(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that

does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(8) USE OF SURFACE TRANSPORTATION [BLOCK GRANT] PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to 1/4 of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(2) on initiatives to halt the evasion of payment of motor fuel taxes.

(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.

(c) EXCISE TAX FUEL REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108–357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

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

(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

(3) FUNDING.—Of the amounts made available to carry out this section for each fiscal year, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.

§ 144. [National bridge and tunnel inventory and inspection standards] *Bridges and tunnels*

(a) FINDINGS AND DECLARATIONS.—

(1) FINDINGS.—Congress finds that—

(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of [deficient] bridges, should be undertaken through an overall asset management approach to transportation investment.

(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety, *resilience,* and extended service life;

(C) to use performance-based bridge management systems to assist States in making timely investments;

(D) to ensure accountability and link performance outcomes to investment decisions; [and]

(E) to ensure connectivity and access for residents of rural areas of the United States through strategic invest-

ments in National Highway System bridges and bridges on all public roads[.]*; and*

(F) to ensure adequate passage of aquatic and terrestrial species, where appropriate.

(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

(1) inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and Federally owned bridges, that are bridges over waterways, other topographical barriers, other highways, and railroads;

(2) inventory all tunnels on public roads, on and off Federal-aid highways, including tribally owned and Federally owned tunnels;

(3) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished;

(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation; and

(5) determine the cost of replacing each [structurally deficient bridge] *bridge classified as in poor condition* identified under this subsection with a comparable facility or the cost of rehabilitating the bridge.

(c) GENERAL BRIDGE AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

(A) are not used and are not susceptible to use in the natural condition of the water or by reasonable improvement as a means to transport interstate or foreign commerce; and

(B) are—

(i) not tidal; or

(ii) if tidal, used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

(d) INVENTORY UPDATES AND REPORTS.—

(1) IN GENERAL.—The Secretary shall—

(A) annually revise the inventories authorized by subsection (b); and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

(2) INSPECTION REPORT.—[Not later than 2 years after the date of enactment of the MAP–21, each] *Each* State and appropriate Federal agency shall report element level data to the Secretary, as each bridge is inspected pursuant to this section, for all highway bridges on the National Highway System.

(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

[(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

[(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

[(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.]

(e) BRIDGES WITHOUT TAXING POWERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

(A) any low water crossing (regardless of the length of the low water crossing);

(B) any bridge that was destroyed prior to January 1, 1965;

(C) any ferry that was in existence on January 1, 1984; or

(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

(g) HISTORIC BRIDGES.—

(1) DEFINITION OF HISTORIC BRIDGE.—In this subsection, the term "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

(4) ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

(6) COSTS INCURRED.—

(A) IN GENERAL.—Costs incurred by the State to preserve a historic bridge (including funds made available to the State, locality, or private entity to enable it to accept the bridge) shall be eligible as reimbursable project costs under this chapter in an amount not to exceed the cost of demolition.

(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

(2) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under paragraph (1) shall, at a minimum—

(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

(B) establish the maximum time period between inspections;

(C) establish the qualifications for those charged with carrying out the inspections;

(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request—

(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

(3) STATE COMPLIANCE WITH INSPECTION STANDARDS.—The Secretary shall, at a minimum—

(A) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

(i) the standards established under this subsection; and

(ii) the calculation or reevaluation of bridge load ratings; and

(B) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

(i) critical findings relating to structural or safety-related deficiencies of highway bridges and tunnels; and

(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

(4) REVIEWS OF STATE COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall annually review State compliance with the standards established under this section.

(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

(ii) provide the State an opportunity to address the noncompliance by—

(I) developing a corrective action plan to remedy the noncompliance; or

(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

(5) PENALTY FOR NONCOMPLIANCE.—

(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

(B) AMOUNT.—The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall—

(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

(ii) require approval by the Secretary.

(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21, the Secretary shall update inspection standards to cover—

(A) the methodology, training, and qualifications for inspectors; and

(B) the frequency of inspection.

(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

(j) BUNDLING OF BRIDGE PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to save costs and time by encouraging States to bundle multiple bridge projects as 1 project.

(2) ELIGIBLE ENTITY DEFINED.—In this subsection, the term "eligible entity" means an entity eligible to carry out a bridge project under section 119*, 124,* or 133.

(3) BUNDLING OF BRIDGE PROJECTS.—An eligible entity may bundle 2 or more similar bridge projects that are—

(A) eligible projects under section 119*, 124,* or 133;

(B) included as a bundled project in a transportation improvement program under section 134(j) or a statewide transportation improvement program under section 135, as applicable; and

(C) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and an eligible entity.

(4) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of bridge projects under this subsection may be listed as—

(A) 1 project for purposes of sections 134 and 135; and

(B) a single project.

(5) FINANCIAL CHARACTERISTICS.—Projects bundled under this subsection shall have the same **[**financial characteristics, including—

[(A) the same funding category or subcategory; and

[(B) the same Federal share.**]** *Federal share.*

(6) ENGINEERING COST REIMBURSEMENT.—The provisions of section 102(b) do not apply to projects carried out under this subsection.

(k) AVAILABILITY OF FUNDS.—In carrying out this section—

(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

(2) a State may use amounts apportioned to the State under section 104(b)(1) and 104(b)(2);

(3) an Indian tribe may use funds made available to the Indian tribe under section 202; and

(4) a Federal agency may use funds made available to the agency under section 503.

(l) HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.—

(1) GOALS.—The goals of this subsection shall be to—

(A) support the achievement of a state of good repair for the Nation's bridges;

(B) improve the safety, efficiency, and reliability of the movement of people and freight over bridges; and

(C) improve the condition of bridges in the United States by reducing—

(i) the number of bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition;

(ii) the total person miles traveled over bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition;

(iii) the number of bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(iv) the total person miles traveled over bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network.

(2) BRIDGES ON PUBLIC ROADS.—

(A) MINIMUM BRIDGE INVESTMENT.—Excluding the amounts described in subparagraph (C), of the total funds apportioned to a State under paragraphs (1) and (2) of section 104(b) for fiscal years 2022 to 2025, a State shall obligate not less than 20 percent for projects described in subparagraph (E).

(B) PROGRAM FLEXIBILITY.—A State required to obligate funds under subparagraph (A) may use any combination of funds apportioned to a State under paragraphs (1) and (2) of section 104(b).

(C) LIMITATION.—Amounts described below may not be used for the purposes of calculating or meeting the minimum bridge investment requirement under subparagraph (A)—

(i) amounts described in section 133(d)(1)(A);

(ii) amounts set aside under section 133(h); and

(iii) amounts described in section 505(a).

(D) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the expenditure of funds described in subparagraph (C) for bridge projects eligible under such section.

(E) ELIGIBLE PROJECTS.—Funds required to be obligated in accordance with paragraph (2)(A) may be obligated for projects or activities that—

(i) are otherwise eligible under either section 119 or section 133, as applicable;

(ii) support the achievement of performance targets of the State established under section 150 or provide support for the condition and performance of bridges on public roads within the State; and

(iii) remove a bridge classified as in poor condition in order to improve community connectivity, or replace, reconstruct, rehabilitate, preserve, or protect a bridge included on the national bridge inventory authorized by subsection (b), including through—

(I) seismic retrofits;

(II) systematic preventive maintenance;

(III) installation of scour countermeasures;

(IV) the use of innovative materials that extend the service life of the bridge and reduce pres-

ervation costs, as compared to conventionally designed and constructed bridges;

(V) the use of nontraditional production techniques, including factory prefabrication;

(VI) painting for purposes of bridge protection;

(VII) application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions;

(VIII) corrosion control;

(IX) construction of protective features (including natural infrastructure) alone or in combination with other activities eligible under this paragraph to enhance resilience of a bridge;

(X) bridge security countermeasures;

(XI) impact protection measures for bridges;

(XII) inspection and evaluation of bridges; and

(XIII) training for bridge inspectors consistent with subsection (i).

(F) BUNDLES OF PROJECTS.—A State may use a bundle of projects as described in subsection (j) to satisfy the requirements of subparagraph (A), if each project in the bundle is otherwise eligible under subparagraph (E).

(G) FLEXIBILITY.—The Secretary may, at the request of a State, reduce the required obligation under subparagraph (A) if—

(i) the reduction is consistent with a State's asset management plan for the National Highway System;

(ii) the reduction will not limit a State's ability to meet its performance targets under section 150 or to improve the condition and performance of bridges on public roads within the State; and

(iii) the State demonstrates that it has inadequate needs to justify the expenditure.

(H) BRIDGE INVESTMENT REPORT.—The Secretary shall annually publish on the website of the Department of Transportation a bridge investment report that includes—

(i) the total Federal funding obligated for bridge projects in the most recent fiscal year, on a State-by-State basis and broken out by Federal program;

(ii) the total Federal funding obligated, on a State-by-State basis and broken out by Federal program, for bridge projects carried out pursuant to the minimum bridge investment requirements under subparagraph (A);

(iii) the progress made by each State toward meeting the minimum bridge investment requirement under subparagraph (A) for such State, both cumulatively and for the most recent fiscal year;

(iv) a summary of—

(I) each request made under subparagraph (G) by a State for a reduction in the minimum bridge

investment requirement under subparagraph (A); and

(II) for each request described in subclause (I) that is granted by the Secretary—

(aa) the percentage and dollar amount of the reduction; and

(bb) an explanation of how the State met each of the criteria described in subparagraph (G); and

(v) a summary of—

(I) each request made by a State for a reduction in the obligation requirements under section 133(f); and

(II) for each request that is granted by the Secretary—

(aa) the percentage and dollar amount of the reduction; and

(bb) an explanation of how the Secretary made the determination under section 133(f)(2)(B).

(I) OFF-SYSTEM BRIDGES.—A State may apply amounts obligated under this subsection or section 133(f)(2)(A) to the obligation requirements of both this subsection and section 133(f).

(J) NHS PENALTY.—A State may apply amounts obligated under this subsection or section 119(f)(2) to the obligation requirements of both this subsection and section 119(f)(2).

(K) COMPLIANCE.—If a State fails to satisfy the requirements of subparagraph (A) by the end of fiscal year 2025, the Secretary may subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations).

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§ 147. Construction of ferry boats and ferry terminal facilities

(a) PROGRAM.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

(d) FORMULA.—Of the amounts allocated under subsection (c)—

(1) 35 percent shall be allocated among eligible entities in the proportion that—

(A) the number of ferry passengers, including passengers in vehicles, carried by each ferry system in the

most recent calendar year for which data is available; bears to

(B) the number of ferry passengers, including passengers in vehicles, carried by all ferry systems in the most recent calendar year for which data is available;

(2) 35 percent shall be allocated among eligible entities in the proportion that—

(A) the number of vehicles carried by each ferry system in the most recent calendar year for which data is available; bears to

(B) the number of vehicles carried by all ferry systems in the most recent calendar year for which data is available; and

(3) 30 percent shall be allocated among eligible entities in the proportion that—

(A) the total route nautical miles serviced by each ferry system in the most recent calendar year for which data is available; bears to

(B) the total route nautical miles serviced by all ferry systems in the most recent calendar year for which data is available.

(e) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—The Secretary shall—

(1) withdraw amounts allocated to an eligible entity under subsection (c) that remain unobligated by the end of the third fiscal year following the fiscal year for which the amounts were allocated; and

(2) in the subsequent fiscal year, redistribute the amounts referred to in paragraph (1) in accordance with the formula under subsection (d) among eligible entities for which no amounts were withdrawn under paragraph (1).

(f) MINIMUM AMOUNT.—Notwithstanding subsection (c), a State with an eligible entity that meets the requirements of this section shall receive not less than $100,000 under this section for a fiscal year.

(g) IMPLEMENTATION.—

(1) DATA COLLECTION.—

(A) NATIONAL FERRY DATABASE.—Amounts made available for a fiscal year under this section shall be allocated using the most recent data available, as collected and imputed in accordance with the national ferry database established under section 1801(e) of SAFETEA–LU (23 U.S.C. 129 note).

(B) ELIGIBILITY FOR FUNDING.—To be eligible to receive funds under subsection (c), data shall have been submitted in the most recent collection of data for the national ferry database under section 1801(e) of SAFETEA–LU (23 U.S.C. 129 note) for at least 1 ferry service within the State.

(2) ADJUSTMENTS.—On review of the data submitted under paragraph (1)(B), the Secretary may make adjustments to the data as the Secretary determines necessary to correct misreported or inconsistent data.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $80,000,000 for each of fiscal years 2016 through 2020.]

[(i)] *(h)* PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

[(j)] *(i)* APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

§ 148. Highway safety improvement program

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

(1) HIGH RISK RURAL ROAD.—The term "high risk rural road" means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

(2) HIGHWAY BASEMAP.—The term "highway basemap" means a representation of all public roads that can be used to geolocate attribute data on a roadway.

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "highway safety improvement program" means projects, activities, plans, and reports carried out under this section.

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term "highway safety improvement project" means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

(i) correct or improve a hazardous road location or feature; or

(ii) address a highway safety problem.

(B) INCLUSIONS.—The term "highway safety improvement project" [only includes a project] *includes a project* for 1 or more of the following:

(i) An intersection safety improvement.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction of a traffic calming feature.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning*, including the development of a vulnerable road user safety assessment or a vision zero plan under section 1601 of the INVEST in America Act*.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

[(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.**]**

(xviii) Safe routes to school infrastructure-related projects eligible under section 211.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Pedestrian hybrid beacons *or leading pedestrian intervals*.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

[(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).**]**

(xxviii) A pedestrian security feature designed to slow or stop a motor vehicle.

(xxix) Installation of infrastructure improvements, including sidewalks, crosswalks, signage, and bus stop shelters or protected waiting areas.

(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term "model inventory of roadway elements" means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term "project to maintain minimum levels of retroreflectivity" means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

(7) ROAD SAFETY AUDIT.—The term "road safety audit" means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

(8) **[**ROAD USERS**]** *ROAD USER*.—The term "road user" means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) SAFETY DATA.—

(A) IN GENERAL.—The term "safety data" means crash, roadway, and traffic data on a public road.

(B) INCLUSION.—The term "safety data" includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

(10) SAFE SYSTEM APPROACH.—The term "safe system approach" means a roadway design that emphasizes minimizing the risk of injury or fatality to road users and that—

(A) takes into consideration the possibility and likelihood of human error;

(B) accommodates human injury tolerance by taking into consideration likely crash types, resulting impact forces, and the human body's ability to withstand such forces; and

(C) takes into consideration vulnerable road users.

(11) SPECIFIED SAFETY PROJECT.—

(A) IN GENERAL.—The term "specified safety project" means a project carried out for the purpose of safety under

any other section of this title that is consistent with the State strategic highway safety plan.

(B) INCLUSION.—The term "specified safety project" includes a project that—

(i) promotes public awareness and informs the public regarding highway safety matters (including safety for motorcyclists, bicyclists, pedestrians, individuals with disabilities, and other road users);

(ii) facilitates enforcement of traffic safety laws;

(iii) provides infrastructure and infrastructure-related equipment to support emergency services;

(iv) conducts safety-related research to evaluate experimental safety countermeasures or equipment; or

(v) supports safe routes to school noninfrastructure-related activities described under section 211(e)(2).

[(10)**]** *(12)* STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "State highway safety improvement program" means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

[(11)**]** *(13)* STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term "State strategic highway safety plan" means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

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

(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) a highway-rail grade crossing safety representative of the Governor of the State;

(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(vii) motor vehicle administration agencies;

(viii) county transportation officials;

(ix) State representatives of nonmotorized users; **[**and**]**

(x) State or local representatives of educational agencies to address safe routes to school and schoolbus safety; and

[(x)**]** *(xi)* other major Federal, State, tribal, and local safety stakeholders;

(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency commu-

nications) of highway safety as key factors in evaluating highway projects;

(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

(E) considers the results of State, *Tribal,* regional, or local transportation and highway safety planning processes;

(F) describes a program of strategies to reduce or eliminate safety hazards;

(G) includes a vulnerable road user safety assessment described under paragraph (16);

[(G)**]** *(H)* is approved by the Governor of the State or a responsible State agency;

[(H)**]** *(I)* is consistent with section 135(g); and

[(I)**]** *(J)* is updated and submitted to the Secretary for approval as required under subsection (d)(2).

[(12)**]** *(14)* SYSTEMIC SAFETY IMPROVEMENT.—The term "systemic safety improvement" means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(15) VULNERABLE ROAD USER.—The term "vulnerable road user" means a nonmotorist—

(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term "number of non-motorized fatalities" in section 490.205 of title 23, Code of Federal Regulations (or successor regulation); or

(B) described in the term "number of non-motorized serious injuries" in such section.

(16) VULNERABLE ROAD USER SAFETY ASSESSMENT.—The term "vulnerable road user safety assessment" means an assessment of the safety performance of the State or a metropolitan planning organization within the State with respect to vulnerable road users and the plan of the State or metropolitan planning organization to improve the safety of vulnerable road users described in subsection (l).

(b) PROGRAM.—

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

(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes

highway safety problems and opportunities as provided in subsections [(a)(11)] *(a)(13)* and (d);

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

(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

(ii) to evaluate the effectiveness of data improvement efforts;

(iii) to link State data systems, including traffic records, with other data systems within the State;

(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

(vi) to improve the collection of data on nonmotorized crashes*, consistent with the vulnerable road user safety assessment*;

(B) based on the analysis required by subparagraph (A)—

(i) identify*, consistent with a safe system approach,* hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, *excessive design speeds and speed limits,* and unmarked or poorly marked roads) that constitute a danger to [motorists (including motorcyclists), bicyclists, pedestrians, and other highway users] *road users*;

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

(v) consider which projects maximize opportunities to advance safety;

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

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

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

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

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to [motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users] *road users*;

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

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

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

(A) IN GENERAL.—[Not later than 1 year after the date of enactment of the MAP–21, the] *The* Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

(iv) rural roads, including all public roads, commensurate with fatality *and serious injury* data;

(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

(vi) the cost-effectiveness of improvements;

(vii) improvements to rail-highway grade crossings**[**; and**]***;*

(viii) the findings of a vulnerable road user safety assessment of the State; and

[(viii)**]** *(ix)* safety on all public roads, including non-State-owned public roads and roads on tribal land.

(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Each State shall—

(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and **[**subsection (a)(11)**]** *subsection (a)(13)*; and

(ii) the process used is consistent with the requirements of this subsection.

(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail;

(B) as provided in subsection (g); or

(C) any project to maintain minimum levels of retroreflectivity with respect to a public road[, without regard to whether the project is included in an applicable State strategic highway safety plan].

(2) USE OF OTHER FUNDING FOR SAFETY.—

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

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(3) FLEXIBLE FUNDING FOR SPECIFIED SAFETY PROJECTS.—

(A) IN GENERAL.—To advance the implementation of a State strategic highway safety plan, a State may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out specified safety projects.

(B) RULE OF STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed to require a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph.

(C) EFFECT OF PARAGRAPH.—

(i) REQUIREMENTS.—A project funded under this paragraph shall be subject to all requirements under this section that apply to a highway safety improvement project.

(ii) OTHER APPORTIONED PROGRAMS.—Subparagraph (A) shall not apply to amounts that may be obligated for noninfrastructure projects apportioned under any other paragraph of section 104(b).

(f) DATA IMPROVEMENT.—

(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

(A) IN GENERAL.—The term "data improvement activities" means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

(B) INCLUSIONS.—The term "data improvement activities" includes a project or activity—

(i) to create, update, or enhance a highway basemap of all public roads in a State;

(ii) to collect safety data, including data identified as part of the model inventory for roadway elements, for creation of or use on a highway basemap of all public roads in a State;

(iii) to store and maintain safety data in an electronic manner;

(iv) to develop analytical processes for safety data elements;

(v) to acquire and implement roadway safety analysis tools; and

(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

(2) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

(B) ensure that States adopt and use the subset to improve data collection.

(g) SPECIAL RULES.—

[(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP–21.]

(1) HIGH-RISK RURAL ROAD SAFETY.—

(A) IN GENERAL.—If a State determines that the fatality rate on rural roads in such State for the most recent 2-year period for which data are available exceeds the median fatality rate for rural roads among all States, that State shall be required to—

(i) obligate over the 2 fiscal years following the fiscal year in which such determination is made for projects on high-risk rural roads an amount not less than 7.5 percent of the amounts apportioned to the State under section 104(b)(3) for fiscal year 2020; and

(ii) include, in the subsequent update to the State strategic highway safety plan, strategies to reduce the fatality rate.

(B) SOURCE OF FUNDS.—Any amounts obligated under subparagraph (A) shall be from amounts described under section 133(d)(1)(B).

(C) ANNUAL DETERMINATION.—The determination described under subparagraph (A) shall be made on an annual basis.

(D) CONSULTATION.—In carrying out a project with an amount obligated under subparagraph (A), a State shall consult with, as applicable, local governments, metropolitan planning organizations, and regional transportation planning organizations.

(2) OLDER [DRIVERS] *ROAD USERS*.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be re-

quired to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to [address the increases in] *reduce* those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103), and dated May 2001, or as subsequently revised and updated.

(3) VULNERABLE ROAD USER SAFETY.—

(A) IN GENERAL.—Beginning on the date of enactment of the INVEST in America Act, if a State determines that the number of vulnerable road user fatalities and serious injuries per capita in such State over the most recent 2-year period for which data are available exceeds the median number of such fatalities and serious injuries per capita among all States, that State shall be required to obligate over the 2 fiscal years following the fiscal year in which such determination is made an amount that is not less than 50 percent of the amount set aside in such State under section 133(h)(1) for fiscal year 2020, less any amounts obligated by a metropolitan planning organization in the State as required by subparagraph (D), for—

(i) in the first fiscal year—

(I) performing the vulnerable user safety assessment as prescribed by subsection (l);

(II) providing matching funds for transportation alternatives safety project as identified in section 133(h)(7)(B); and

(III) projects eligible under section 133(h)(3)(A), (B), (C), or (I); and

(ii) in each fiscal year thereafter, the program of projects identified in subsection (l)(2)(C).

(B) SOURCE OF FUNDS.—Any amounts obligated under subparagraph (A) shall be from amounts described in section 133(d)(1)(B).

(C) ANNUAL DETERMINATION.—The determination described under subparagraph (A) shall be made on an annual basis.

(D) METROPOLITAN PLANNING AREA WITH EXCESSIVE FATALITIES AND SERIOUS INJURIES PER CAPITA.—

(i) ANNUAL DETERMINATION.—Beginning on the date of enactment of the INVEST in America Act, a metropolitan planning organization representing an urbanized area with a population greater than 200,000 shall annually determine the number of vulnerable user road fatalities and serious injuries per capita in such area over the most recent 2-year period.

(ii) REQUIREMENT TO OBLIGATE FUNDS.—If such a metropolitan planning area organization determines that the number of vulnerable user road fatalities and serious injuries per capita in such area over the most recent 2-year period for which data are available exceeds the median number of such fatalities and serious injuries among all urbanized areas with a population

of over 200,000, then there shall be obligated over the 2 fiscal years following the fiscal year in which such determination is made an amount that is not less than 50 percent of the amount set aside for that urbanized area under section 133(h)(2) for fiscal year 2020 for projects identified in the program of projects described in subsection (l)(7)(C).

(E) SOURCE OF FUNDS.—

(i) METROPOLITAN PLANNING ORGANIZATION IN STATE REQUIRED TO OBLIGATE FUNDS.—For a metropolitan planning organization in a State required to obligate funds to vulnerable user safety under subparagraph (A), the State shall be required to obligate from such amounts required to be obligated for vulnerable road user safety under subparagraph (B) for projects described in subsection (l)(7).

(ii) OTHER METROPOLITAN PLANNING ORGANIZATIONS.—For a metropolitan planning organization that is not located within a State required to obligate funds to vulnerable user safety under subparagraph (A), the State shall be required to obligate from amounts apportioned under section 104(b)(3) for projects described in subsection (l)(7).

(h) REPORTS.—

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

(A) describes progress being made to implement highway safety improvement projects under this section*, including any efforts to reduce vehicle speed*;

(B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section have contributed to reducing—

(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

(A) the website of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the safety performance targets of the State established under section 150(d), the State shall—

(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State; and

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State, an implementation plan that—

(A) identifies roadway features that constitute a hazard to road users;

(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the [safety safety] *safety* performance targets of the State; and

(E) describes the actions the State will undertake to meet the safety performance targets of the State.

(j) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.

(k) DATA COLLECTION ON UNPAVED PUBLIC ROADS.—

(1) IN GENERAL.—A State may elect not to collect fundamental data elements for the model inventory of roadway elements on public roads that are gravel roads or otherwise unpaved if—

(A) the State does not use funds provided to carry out this section for a project on any such roads until the State completes a collection of the required model inventory of roadway elements for the applicable road segment; and

(B) the State demonstrates that the State consulted with affected Indian tribes before ceasing to collect data with respect to such roads that are included in the National Tribal Transportation Facility Inventory under section 202(b)(1) of this title.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow a State to cease data collection related to serious injuries or fatalities.

(l) VULNERABLE ROAD USER SAFETY ASSESSMENT.—

(1) IN GENERAL.—Not later than 1 year after date of enactment of the INVEST in America Act, each State shall create a vulnerable road user safety assessment.

(2) CONTENTS.—A vulnerable road user safety assessment required under paragraph (1) shall include—

(A) a description of the location within the State of each vulnerable road user fatality and serious injury and the design speed of the roadway at any such location;

(B) a description of any corridors identified by a State, in coordination with local governments, metropolitan planning organizations, and regional transportation planning organizations that pose a high risk of a vulnerable road user fatality or serious injury and the design speeds of such corridors; and

(C) a program of projects or strategies to reduce safety risks to vulnerable road users in corridors identified under subparagraph (B), in coordination with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under subparagraph (B).

(3) ANALYSIS.—In creating a vulnerable road user safety assessment under this subsection, a State shall assess the last 5 years of available data.

(4) REQUIREMENTS.—In creating a vulnerable road user safety assessment under this subsection, a State shall—

(A) take into consideration a safe system approach; and

(B) coordinate with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under paragraph (2)(B).

(5) UPDATE.—A State shall update a vulnerable road user safety assessment on the same schedule as the State updates the State strategic highway safety plan.

(6) TRANSPORTATION SYSTEM ACCESS.—The program of projects developed under paragraph (2)(C) may not degrade transportation system access for vulnerable road users.

§ 149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (d), a State may obligate funds apportioned to it under section 104(b)(4)

for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard in the designated nonattainment area; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to ⟦subsection (h)⟧ *subsection (i)* to determine the relative effectiveness of such projects or programs; or,

(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment or maintenance of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment or maintenance in the area of a national ambient air quality standard;

(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on

the day before the date of enactment of this paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, *shared micromobility (including bikesharing and shared scooter systems),* alternative work hours, and pricing;

(8) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

(ii) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects or port-related freight operations that are—

(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under this title or chapter 53 of title 49; or

(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits**[**; or**]***;*

(9) if the project or program is for the installation of vehicle-to-infrastructure communication equipment**[**.**]***; or*

(10) if the project or program mitigates seasonal or temporary traffic congestion from long-haul travel or tourism.

(c) SPECIAL RULES.—

(1) PROJECTS FOR PM–10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(4) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(2) ELECTRIC VEHICLE*, HYDROGEN VEHICLE,* AND NATURAL GAS VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(4) for a project or program to establish electric vehicle charging stations or *hydrogen or* natural gas vehicle refueling stations for the use of battery powered*, hydrogen-powered,* or natural gas fueled trucks or other motor vehicles at any location in the State (giving priority to corridors designated under section 151) except that such stations may not be established or supported where commercial

establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) HOV FACILITIES.—No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times*, and is consistent with section 166*.

(d) STATES FLEXIBILITY.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation [block grant] program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—

(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use for any project that would otherwise be eligible under subsection (b) if the project were carried out in a nonattainment or maintenance area or is eligible under the surface transportation [block grant] program under section 133 an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (k)(1)); by

(ii) the ratio calculated under subparagraph (B).

(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under

the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify, in a manner consistent with the approach that was in effect on the day before the date of enactment of MAP–21, the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

(e) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(f) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

(B) cost sharing of any project expense;

(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(g) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

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

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) DIESEL RETROFIT.—The term "diesel retrofit" means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later than 18 months of the date of enactment of this subsection;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

(3) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM2.5, including diesel retrofits.

(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).

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

(i) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) DATABASE.—

(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already

measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

(2) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (*l*).

(j) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

(2) CONSTRUCTION EQUIPMENT AND VEHICLES.—In order to meet the requirements of paragraph (1), a State or metropolitan planning organization may elect to obligate funds to install diesel emission control technology on nonroad diesel equipment or on-road diesel equipment that is operated on a highway construction project within a PM2.5 nonattainment or maintenance area.

(3) PM2.5 NONATTAINMENT AND MAINTENANCE IN LOW POPULATION DENSITY STATES.—

(A) EXCEPTION.—In any State with a population density of 80 or fewer persons per square mile of land area, based on the most recent decennial census, the requirements under subsection (g)(3) and paragraphs (1) and (2) of this subsection shall not apply to a nonattainment or maintenance area in the State if—

(i) the nonattainment or maintenance area does not have projects that are part of the emissions analysis of a metropolitan transportation plan or transportation improvement program; and

(ii) regional motor vehicle emissions are an insignificant contributor to the air quality problem for PM2.5 in the nonattainment or maintenance area.

(B) CALCULATION.—If subparagraph (A) applies to a nonattainment or maintenance area in a State, the percentage of the PM2.5 set-aside under paragraph (1) shall be reduced for that State proportionately based on the weighted population of the area in fine particulate matter nonattainment.

(4) PORT-RELATED EQUIPMENT AND VEHICLES.—To meet the requirements under paragraph (1), a State or metropolitan planning organization may elect to obligate funds to the most cost-effective projects to reduce emissions from port-related landside nonroad or on-road equipment that is operated within the boundaries of a PM2.5 nonattainment or maintenance area.

(l) PERFORMANCE PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing a nonattainment or maintenance area shall develop a performance plan that—

(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

(B) describes progress made in achieving the air quality and traffic congestion performance targets described in section 150(d); and

(C) includes a description of projects identified for funding under this section and how such projects will contribute to achieving emission and traffic congestion reduction targets.

(2) UPDATED PLANS.—Performance plans shall be updated biennially and include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

[(m) OPERATING ASSISTANCE.—A State may obligate funds apportioned under section 104(b)(4) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system for which CMAQ funding was made available, obligated or expended in fiscal year 2012, or on a State-Supported Amtrak route with a valid cost-sharing

agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 and no current nonattainment areas under subsection (d), and shall have no imposed time limitation.]

(m) OPERATING ASSISTANCE.—

(1) PROJECTS.—A State may obligate funds apportioned under section 104(b)(4) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system for which CMAQ funding was made available, obligated, or expended in fiscal year 2012, or, notwithstanding subsection (b), on a State-supported Amtrak route with a cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 or alternative cost allocation under section 24712(g)(3) of title 49.

(2) TIME LIMITATION.—In determining the amount of time for which a State may obligate funds under paragraph (1) for operating assistance for an area of a State or on a system, the Secretary shall allow such obligations to occur, in such area or on such system—

(A) with a time limitation of not less than 3 years; and

(B) in the case of projects that demonstrate continued net air quality benefits beyond 3 years, as determined annually by the Secretary in consultation with the Administrator of the Environmental Protection Agency, with no imposed time limitation.

§ 150. National goals and performance management measures

(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the National Highway Freight Network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

(7) COMBATING CLIMATE CHANGE.—To reduce carbon dioxide and other greenhouse gas emissions and reduce the climate impacts of the transportation system.

[(7)**]** *(8)* REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—**[**Not later than 18 months after the date of enactment of the MAP–21, the Secretary**]** *The Secretary*, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

(A) provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary under that paragraph;

(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

(C) limit performance measures only to those described in this subsection.

(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

(i) minimum standards for States to use in developing and operating bridge and pavement management systems;

(ii) measures for States to use to assess—

(I) the condition of pavements on the Interstate system;

(II) the condition of pavements on the National Highway System (excluding the Interstate);

(III) the condition of bridges on the National Highway System;

(IV) the performance of the Interstate System; and

(V) the performance of the National Highway System (excluding the Interstate System);

(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach.

(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

(A) serious injuries and fatalities per vehicle mile traveled; and

(B) the number of serious injuries and fatalities.

(5) CONGESTION MITIGATION AND AIR QUALITY PROGRAM.—For the purpose of carrying out section 149, the Secretary shall establish measures for States to use to assess—

(A) traffic congestion; and

(B) on-road mobile source emissions.

(6) NATIONAL FREIGHT MOVEMENT.—The Secretary shall establish measures for States to use to assess freight movement on the Interstate System.

(7) GREENHOUSE GAS EMISSIONS.—The Secretary shall establish, in consultation with the Administrator of the Environmental Protection Agency, measures for States to use to assess—

(A) carbon dioxide emissions per capita on public roads; and

(B) any other greenhouse gas emissions per capita on public roads that the Secretary determines to be appropriate.

(d) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(1) IN GENERAL.—**[**Not later than 1 year after the Secretary has promulgated the final rulemaking under subsection (c), each**]** *Each* State shall set performance targets that reflect the measures identified in paragraphs (3), (4), (5), **[**and (6)**]** *(6), and (7)* of subsection (c).

(2) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

(3) REGRESSIVE TARGETS.—

(A) IN GENERAL.—A State may not establish a regressive target for the measures described under paragraph (4) or paragraph (7) of subsection (c).

(B) REGRESSIVE TARGET DEFINED.—In this paragraph, the term "regressive target" means a target that fails to demonstrate constant or improved performance for a particular measure.

(e) REPORTING ON PERFORMANCE TARGETS.—**[**Not later than 4 years after the date of enactment of the MAP–21 and biennially

thereafter, a] *A* State shall submit to the Secretary a *biennial* report that describes—

(1) the condition and performance of the National Highway System in the State;

(2) the effectiveness of the investment strategy document in the State asset management plan for the National Highway System;

(3) progress in achieving performance targets identified under subsection (d); and

(4) the ways in which the State is addressing congestion at freight bottlenecks, including those identified in the national freight strategic plan, within the State.

(f) TRANSPORTATION SYSTEM ACCESS.—

(1) IN GENERAL.—The Secretary shall establish measures for States and metropolitan planning organizations to use to assess the level of safe, reliable, and convenient transportation system access to—

(A) employment; and

(B) services.

(2) CONSIDERATIONS.—The measures established pursuant to paragraph (1) shall include the ability for States and metropolitan planning organizations to assess—

(A) the change in the level of transportation system access for various modes of travel, including connection to other modes of transportation, that would result from new transportation investments;

(B) the level of transportation system access for economically disadvantaged communities, including to affordable housing; and

(C) the extent to which transportation access is impacted by zoning policies and land use planning practices that effect the affordability, elasticity, and diversity of the housing supply.

(3) DEFINITION OF SERVICES.—In this subsection, the term "services" includes healthcare facilities, child care, education and workforce training, food sources, banking and other financial institutions, and other retail shopping establishments.

§ 151. National electric vehicle charging and hydrogen, propane, and natural gas fueling corridors

(a) IN GENERAL.—[Not later than 1 year after the date of enactment of the FAST Act, the Secretary shall] *The Secretary shall periodically* designate national electric vehicle charging and hydrogen, propane, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways to improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, propane, and natural gas fueling technologies across the United States.

(b) DESIGNATION OF CORRIDORS.—In designating the corridors under subsection (a), the Secretary shall—

(1) solicit nominations from State and local officials for facilities to be included in the corridors;

(2) incorporate existing electric vehicle charging, hydrogen fueling, propane fueling, and natural gas fueling corridors *previously designated by the Federal Highway Administration or* designated by a State or group of States; and

(3) consider the demand for, and location of, existing electric vehicle charging stations, hydrogen fueling stations, propane fueling stations, and natural gas fueling infrastructure.

(c) STAKEHOLDERS.—In designating corridors under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

(1) the heads of other Federal agencies;

(2) State and local officials;

(3) representatives of—

(A) energy utilities;

(B) the electric, fuel cell electric, propane, and natural gas vehicle industries;

(C) the freight and shipping industry;

(D) clean technology firms;

(E) the hospitality industry;

(F) the restaurant industry;

(G) highway rest stop vendors; and

(H) industrial gas and hydrogen manufacturers; and

(4) such other stakeholders as the Secretary determines to be necessary.

(d) REDESIGNATION.—Not later than **[**5 years after the date of establishment of the corridors under subsection (a), and every 5 years thereafter**]** *180 days after the date of enactment of the INVEST in America Act*, the Secretary shall *establish a recurring process to regularly* update and redesignate the corridors.

(e) REPORT.—During designation and redesignation of the corridors under this section, the Secretary shall issue a report that—

(1) identifies electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure and standardization needs for electricity providers, industrial gas providers, natural gas providers, infrastructure providers, vehicle manufacturers, electricity purchasers, and natural gas purchasers**[**; and**]***;*

(2) **[**establishes an aspirational goal of achieving**]** *describes efforts to achieve* strategic deployment of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure in those corridors **[**by the end of fiscal year 2020.**]***;*

(3) summarizes best practices and provides guidance, developed through consultation with the Secretary of Energy, for project development of electric vehicle charging infrastructure, hydrogen fueling infrastructure, and natural gas fueling infrastructure at the State, tribal, and local level to allow for the predictable deployment of such infrastructure; and

(4) summarizes the progress and implementation of the grant program under subsection (f), including—

(A) a description of how funds awarded through the grant program under subsection (f) will aid efforts to achieve strategic deployment of electric vehicle charging infrastructure, natural gas fueling, propane fueling, and hydrogen fueling infrastructure in those corridors;

(B) the total number and location of charging and fueling stations installed under subsection (f); and

(C) the total estimated greenhouse gas emissions that have been reduced through the use of electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure funded under subsection (f) using the methodology identified in paragraph (3)(B).

(f) ELECTRIC VEHICLE CHARGING, NATURAL GAS FUELING, PROPANE FUELING, AND HYDROGEN FUELING INFRASTRUCTURE GRANTS.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the INVEST in America Act, the Secretary shall establish a grant program to award grants to eligible entities for electric vehicle charging, natural gas fueling, propane fueling, and hydrogen fueling infrastructure projects.

(2) ELIGIBLE ENTITY.—An entity eligible to receive a grant under this subsection is—

(A) a State (as such term is defined in section 401) or political subdivision of a State;

(B) a metropolitan planning organization;

(C) a unit of local government;

(D) a special purpose district or public authority with a transportation function, including a port authority;

(E) a Tribal government;

(F) an authority, agency, or instrumentality of, or an entity owned by, 1 or more of the entities described in subparagraphs (A) through (E); or

(G) a group of entities described in subparagraphs (A) through (F).

(3) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require, including—

(A) a description of—

(i) the public accessibility of the charging or fueling infrastructure proposed to be funded with a grant under this subsection, including—

(I) charging or fueling connector types;

(II) publicly available information on real-time availability; and

(III) payment methods available to all members of the public to ensure secure, convenient, fair, and equal access and not limited by membership to a particular provider;

(ii) collaborative engagement with the entity with jurisdiction over the roadway and any other relevant stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers,

electric charging, natural gas, propane, and hydrogen fuel providers, metropolitan planning organizations, States, Indian Tribes, units of local government, fleet owners, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multistate and regional entities)—

(I) to foster enhanced, coordinated, public-private or private investment in electric vehicle charging, natural gas fueling, propane fueling, and hydrogen fueling infrastructure;

(II) to expand deployment of electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure;

(III) to protect personal privacy and ensure cybersecurity; and

(IV) to ensure that a properly trained workforce is available to construct and install electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure;

(iii) the location of the station or fueling site, including consideration of—

(I) the availability of onsite amenities for vehicle operators, including restrooms or food facilities;

(II) access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(III) height and fueling capacity requirements for facilities that charge or refuel large vehicles, including semitrailer trucks; and

(IV) appropriate distribution to avoid redundancy and fill charging or fueling gaps;

(iv) infrastructure installation that can be responsive to technology advancements, including accommodating autonomous vehicles and future charging methods;

(v) the long-term operation and maintenance of the electric vehicle charging or hydrogen fueling infrastructure to avoid stranded assets and protect the investment of public funds in such infrastructure; and

(vi) in the case of an applicant that is not a State department of transportation, the degree of coordination with the applicable State department of transportation; and

(B) an assessment of the estimated greenhouse gas emissions and air pollution from vehicle emissions that will be reduced through the use of electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure, which shall be conducted using one standardized methodology or tool as determined by the Secretary.

(4) CONSIDERATIONS.—In selecting eligible entities to receive a grant under this subsection, the Secretary shall—

(A) consider the extent to which the application of the eligible entity would—

(i) reduce estimated greenhouse gas emissions and air pollution from vehicle emissions, weighted by the total Federal investment in the project;

(ii) improve alternative fueling corridor networks by—

(I) converting corridor-pending corridors to corridor-ready corridors; or

(II) in the case of corridor-ready corridors, providing additional capacity—

(aa) to meet excess demand for charging or fueling infrastructure; or

(bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations;

(iii) meet current or anticipated market demands for charging or fueling infrastructure;

(iv) enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance;

(v) support a long-term competitive market for electric vehicle charging infrastructure, natural gas fueling, propane fueling, or hydrogen fueling infrastructure that does not significantly impair existing electric vehicle charging or hydrogen fueling infrastructure providers; and

(vi) reducing greenhouse gas emissions in established goods-movement corridors, locations serving first- and last-mile freight near ports and freight hubs, and locations that optimize infrastructure networks and reduce hazardous air pollutants in communities disproportionately impacted by such pollutants; and

(B) ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that electric vehicle charging infrastructure or hydrogen fueling infrastructure is available throughout the United States.

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any grant made under this subsection shall be—

(i) directly related to the charging or fueling of a vehicle; and

(ii) only for charging or fueling infrastructure that is open to the general public.

(B) LOCATION OF INFRASTRUCTURE.—

(i) IN GENERAL.—Any electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure acquired and installed with a grant under this subsection shall be located along an alternative fuel corridor designated under this section or by a State or group of States.

(ii) EXCEPTION.—Notwithstanding clause (i), the Secretary may make a grant for electric vehicle charg-

ing or hydrogen fueling infrastructure not on a designated alternative fuel corridor if the applicant demonstrates that the proposed charging or fueling infrastructure would expand deployment of electric vehicle charging or hydrogen fueling to a greater number of users than investments on such corridor.

(C) OPERATING ASSISTANCE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), an eligible entity that receives a grant under this subsection may use a portion of the funds for operating assistance for the first 5 years of operations after the installation of electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure while the facility transitions to independent system operations.

(ii) INCLUSION.—Operating assistance under this subparagraph shall be limited to costs allocable to operating and maintaining the electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure and service.

(iii) LIMITATION.—Operating assistance under this subparagraph may not exceed the amount of a contract under subparagraph (A) to acquire and install electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure.

(D) SIGNS.—

(i) IN GENERAL.—Subject to this paragraph and paragraph (6)(B), an eligible entity that receives a grant under this subsection may use a portion of the funds to acquire and install—

(I) traffic control devices located in the right-of-way to provide directional information to electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure acquired, installed, or operated with the grant under this subsection; and

(II) on-premises signs to provide information about electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure acquired, installed, or operated with a grant under this subsection.

(ii) REQUIREMENT.—Any traffic control device or on-premises sign acquired, installed, or operated with a grant under this subsection shall comply with the Manual on Uniform Traffic Control Devices, if located in the highway right-of-way.

(E) REVENUE.—An eligible entity receiving a grant under this subsection and a private entity referred to in subparagraph (F) may enter into a cost-sharing agreement under which the private entity submits to the eligible entity a portion of the revenue from the electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure.

(F) PRIVATE ENTITY.—

(i) IN GENERAL.—An eligible entity receiving a grant under this subsection may use the funds in accordance with this paragraph to contract with a private entity for installation, operation, or maintenance of electric vehicle charging, natural gas fueling, propane fueling, or hydrogen fueling infrastructure.

(ii) INCLUSION.—An eligible private entity includes privately, publicly, or cooperatively owned utilities, private electric vehicle service equipment and hydrogen fueling infrastructure providers, and retail fuel stations.

(6) PROJECT REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any project funded by a grant under this subsection shall be treated as a project on a Federal-aid highway.

(B) ELECTRIC VEHICLE CHARGING PROJECTS.—A project for electric vehicle charging infrastructure funded by a grant under this subsection shall be subject to the requirements of section 155.

(7) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall not exceed 80 percent of the total project cost.

(8) CERTIFICATION.—The Secretary of Commerce shall certify that no projects carried out under this subsection use minerals sourced or processed with child labor, as such term is defined in Article 3 of the International Labor Organization Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labor (December 2, 2000), or in violation of human rights.

* * * * * * *

§ 155. Electric vehicle charging stations

(a) IN GENERAL.—Any electric vehicle charging infrastructure funded under this title shall be subject to the requirements of this section.

(b) INTEROPERABILITY.—

(1) IN GENERAL.—Electric vehicle charging stations funded under this title shall provide, at a minimum, two of the following charging connector types at the location:

(A) CCS.

(B) CHAdeMO.

(C) An alternative connector that meets applicable industry safety standards

(2) SAVINGS CLAUSE.—Nothing in this subsection shall prevent the use of charging types other than the connectors described in paragraph (1) if, at a minimum, such connectors meet applicable industry safety standards and are compatible with a majority of electric vehicles in operation.

(c) OPEN ACCESS TO PAYMENT.—Electric vehicle charging stations shall provide payment methods available to all members of the

public to ensure secure, convenient, and equal access and shall not be limited by membership to a particular payment provider.

(d) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, any project to install electric vehicle charging infrastructure shall be treated as if the project is located on a Federal-aid highway.

(e) CERTIFICATION.—The Secretary of Commerce shall certify that no electric vehicle charging stations installed under this section use minerals sourced or processed with child labor, as such term is defined in Article 3 of the International Labor Organization Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labor (December 2, 2000), or in violation of human rights.

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§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

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

(1) 24-7 SOBRIETY PROGRAM.—The term "24-7 sobriety program" has the meaning given the term in section 405(d)(7)(A).

(2) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(4) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law or combination of laws or programs that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

(A) receive, for a period of not less than 1 year—

(i) a suspension of all driving privileges;

(ii) a restriction on driving privileges that limits the individual to operating only motor vehicles with an ignition interlock device installed, unless a special exception applies;

(iii) a restriction on driving privileges that limits the individual to operating motor vehicles only if participating in, and complying with, a 24-7 sobriety program; or

(iv) any combination of clauses (i) through (iii);

(B) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(C) receive—

(i) in the case of the second offense—

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment (unless the State certifies that the general practice is that such an individual will be incarcerated); and

(ii) in the case of the third or subsequent offense—

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment (unless the State certifies that the general practice is that such an individual will receive 10 days of incarceration).

(6) SPECIAL EXCEPTION.—The term "special exception" means an exception under a State alcohol-ignition interlock law for the following circumstances:

(A) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual.

(B) The individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 11/2 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for **[**alcohol-impaired**]** *alcohol or polysubstance-impaired* driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated **[**or**]***,* driving under the influence*, or driving while polysubstance-impaired* and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific **[**alcohol-impaired**]** *alcohol or polysubstance-impaired* driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2012 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will

use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—A State may elect to use all or a portion of the funds reserved under paragraph (2) for activities eligible under section 148.

(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred or released under paragraph (2) may be derived from the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(2).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safe-

ty construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

§ 165. Territorial and Puerto Rico highway program

(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

(1) **[**$158,000,000**]** *$210,000,000* shall be for the Puerto Rico highway program under subsection (b); and

(2) **[**$42,000,000**]** *$100,000,000* shall be for the territorial highway program under subsection (c).

(b) PUERTO RICO HIGHWAY PROGRAM.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

(A) APPORTIONMENT.—

(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

(I) the aggregate of the amounts for the fiscal year; by

(II) the proportion that—

(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation **[**block grant**]** program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the surface transportation program for purposes of imposing such penalties.

(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

(i) at least 50 percent shall be available only for purposes eligible under section 119;

(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

(iii) any remaining funds may be obligated for activities eligible under chapter 1.

(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

(c) TERRITORIAL HIGHWAY PROGRAM.—

(1) TERRITORY DEFINED.—In this subsection, the term "territory" means any of the following territories of the United States:

(A) American Samoa.

(B) The Commonwealth of the Northern Mariana Islands.

(C) Guam.

(D) The United States Virgin Islands.

(2) PROGRAM.—

(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

(i) designated by the Governor or chief executive officer of each territory; and

(ii) approved by the Secretary.

(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

(3) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

(i) to engage in highway planning;

(ii) to conduct environmental evaluations;

(iii) to administer right-of-way acquisition and relocation assistance programs; and

(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

(5) AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

(I) appropriate for each territory; and

(II) approved by the Secretary;

(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

(i) specify the kind of technical assistance to be provided under the program;

(ii) include appropriate provisions regarding information sharing among the territories; and

(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

(6) ELIGIBLE USES OF FUNDS.—

(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

(i) Eligible surface transportation [block grant] program projects described in section 133(b).

(ii) Cost-effective, preventive maintenance consistent with section 116(e).

(iii) Ferry boats, terminal facilities, and approaches, [in accordance with subsections (b) and (c) of section 129] *including such boats, facilities, and approaches that are privately or majority-privately owned, provided that such boats, facilities, and approaches provide a substantial public benefit*.

(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

(v) Studies of the economy, safety, and convenience of highway use.

(vi) The regulation and equitable taxation of highway use.

(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (1) through (4) of section 133(c) and section 133(b)(12)) may not be undertaken on roads functionally classified as local.

(d) PARTICIPATION OF TERRITORIES IN DISCRETIONARY PROGRAMS.—For any program in which the Secretary may allocate funds out of the Highway Trust Fund (other than the Mass Transit Account) to a State at the discretion of the Secretary, the Secretary may allocate funds to one or more territory for any project or activity that otherwise would be eligible under such program if such project or activity was being carried out in a State.

§ 166. HOV facilities

(a) IN GENERAL.—

(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority that has jurisdiction over the operation of a HOV facility

shall establish the occupancy requirements of vehicles operating on the facility.

(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a public authority operating a HOV facility.

(2) MOTORCYCLES AND BICYCLES.—

(A) IN GENERAL.—Subject to subparagraph (B), the public authority shall allow motorcycles and bicycles to use the HOV facility.

(B) SAFETY EXCEPTION.—

(i) IN GENERAL.—A public authority may restrict use of the HOV facility by motorcycles or bicycles (or both) if the authority certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

(3) PUBLIC TRANSPORTATION VEHICLES.—The public authority may allow public transportation vehicles to use the HOV facility if the authority—

(A) establishes requirements for clearly identifying the vehicles;

(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles; and

(C) provides equal access under the same rates, terms, and conditions for all public transportation vehicles and over-the-road buses serving the public.

(4) HIGH OCCUPANCY TOLL VEHICLES.—The public authority may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority—

(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

(B) develops, manages, and maintains a system that will automatically collect the toll; and

(C) establishes policies and procedures to—

(i) manage the demand to use the facility by varying the toll amount that is charged;

(ii) enforce violations of use of the facility; and

(iii) ensure that over-the-road buses serving the public are provided access to the facility under the same rates, terms, and conditions as public [transportation buses] *transportation vehicles*.

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) SPECIAL RULE.—Before September 30, 2025, if a public authority establishes procedures for enforcing the restrictions on the use of a HOV facility by vehicles described in clauses (i) and (ii), the public authority may allow the use of the HOV facility by—

(i) alternative fuel vehicles; and

(ii) any motor vehicle described in section 30D(d)(1) of the Internal Revenue Code of 1986.

(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, [2019] *2025*, the public authority may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority—

(i) establishes a program that addresses the selection of vehicles under this paragraph; and

(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(C) AMOUNT OF TOLLS.—Under this paragraph, a public authority may charge no toll or may charge a toll that is less than or equal to tolls charged under paragraph (4).

(c) REQUIREMENTS APPLICABLE TO TOLLS.—

(1) IN GENERAL.—Notwithstanding section 301, tolls may be charged under paragraphs (4) and (5) of subsection (b), subject to the requirements of section 129.

(2) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

(1) IN GENERAL.—A public authority that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify to the Secretary that the authority will carry out the following responsibilities with respect to the facility:

(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways and submitting to the Secretary annual reports of those impacts.

(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

(C) Limiting or discontinuing the use of the facility by the vehicles whenever the operation of the facility is degraded.

(D) MAINTENANCE OF OPERATING PERFORMANCE.—

(i) SUBMISSION OF PLAN.—Not later than 180 days after the date on which a facility is degraded under paragraph (2), the public authority with jurisdiction over the facility shall submit to the Secretary for approval a plan that details the actions the public authority will take to make significant progress toward bringing the facility into compliance with the minimum average operating speed performance standard through changes to the operation of the facility, including—

(I) increasing the occupancy requirement for HOV lanes;

(II) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

(III) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

(IV) increasing the available capacity of the HOV facility.

(ii) NOTICE OF APPROVAL OR DISAPPROVAL.—Not later than 60 days after the date of receipt of a plan under clause (i), the Secretary shall provide to the public authority a written notice indicating whether the Secretary has approved or disapproved the plan based on a determination of whether the implementation of the plan will make significant progress toward bringing the HOV facility into compliance with the minimum average operating speed performance standard.

(iii) ANNUAL PROGRESS UPDATES.—Until the date on which the Secretary determines that the public authority has brought the HOV facility into compliance with this subsection, the public authority shall submit annual updates that describe—

(I) the actions taken to bring the HOV facility into compliance; and

(II) the progress made by those actions.

(E) COMPLIANCE.—If the public authority fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the public authority to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

(F) WAIVER.—

(i) IN GENERAL.—Upon the request of a public authority, the Secretary may waive the compliance requirements of subparagraph (E), if the Secretary determines that—

(I) the waiver is in the best interest of the traveling public;

(II) the public authority is meeting the conditions under subparagraph (D); and

(III) the public authority has made a good faith effort to improve the performance of the facility.

(ii) CONDITION.—The Secretary may require, as a condition of providing a waiver under this subparagraph, that a public authority take additional actions, as determined by the Secretary, to maximize the operating speed performance of the facility, even if such performance is below the level set under paragraph (2).

(2) DEGRADED FACILITY.—

(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term "minimum average operating speed" means—

(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during [morning or evening weekday peak hour periods (or both)] *peak hour periods*.

(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a public authority may increase the percentages described in subsection (f)(3)(B)(i).

(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—[Not later than 180 days after the date of enactment of this section, the Administrator] *The Administrator* of the Environmental Protection Agency shall—

(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; [and]

(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49[.]*; and*

(3) not later than 180 days after the date of enactment of the INVEST in America Act, update the requirements established under paragraph (1).

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

(1) ALTERNATIVE FUEL VEHICLE.—The term "alternative fuel vehicle" means a vehicle that is solely operating on—

(A) methanol, denatured ethanol, or other alcohols;

(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

[(C) natural gas;

[(D) liquefied petroleum gas;]

[(E)] *(C)* hydrogen;

[(F) coal derived liquid fuels;]

[(G)] *(D)* fuels (except alcohol) derived from biological materials;

[(H)] *(E)* electricity (including electricity from solar energy); or

[(I)] *(F)* any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

(2) HOV FACILITY.—The term "HOV facility" means a high occupancy vehicle facility.

(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term "low emission and energy-efficient vehicle" means a vehicle that—

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

(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

(ii) is an alternative fuel vehicle.

(4) OVER-THE-ROAD BUS.—The term "over-the-road bus" has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(5) PUBLIC AUTHORITY.—The term "public authority" as used with respect to a HOV facility, means a State, interstate compact of States, public entity designated by a State, or local government having jurisdiction over the operation of the facility.

(6) PUBLIC TRANSPORTATION VEHICLE.—The term "public transportation vehicle" means a vehicle that—

(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

(B)(i) is owned or operated by a [public entity] *public transportation service that is a recipient or subrecipient of funds under chapter 53 of title 49*;

(ii) is operated under a contract with a public entity; or

(iii) is operated pursuant to a license by the Secretary or a public authority to provide motorbus or school vehicle transportation services to the public.

(g) CONSULTATION OF MPO.—If a HOV facility charging tolls under paragraph (4) or (5) of subsection (b) is on the Interstate System and located in a metropolitan planning area established in accordance with section 134, the public authority shall consult with the metropolitan planning organization for the area concerning the placement and amount of tolls on the facility.

§ 167. National highway freight program

(a) IN GENERAL.—

(1) POLICY.—It is the policy of the United States to improve the condition and performance of the National Highway Freight Network established under this section to ensure that the Network provides the foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(2) ESTABLISHMENT.—In support of the goals described in subsection (b), the Administrator of the Federal Highway Administration shall establish a national highway freight program in accordance with this section to improve the efficient movement of freight on the National Highway Freight Network.

(b) GOALS.—The goals of the national highway freight program are—

(1) to invest in infrastructure improvements and to implement operational improvements on the highways of the United States that—

(A) strengthen the contribution of the National Highway Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and bottlenecks on the National Highway Freight Network;

(C) reduce the cost of freight transportation;

(D) improve the year-round reliability of freight transportation; and

(E) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

(2) to improve the safety, security, efficiency, and resiliency of freight transportation in rural and urban areas;

(3) to improve the state of good repair of the National Highway Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Highway Freight Network;

(5) to improve the efficiency and productivity of the National Highway Freight Network;

(6) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address highway freight connectivity[; and]*;*

[(7) to reduce the environmental impacts of freight movement on the National Highway Freight Network.]

(7) to reduce the environmental impacts of freight movement on the National Highway Freight Network, including—

(A) greenhouse gas emissions;

(B) local air pollution;

(C) minimizing, capturing, or treating stormwater runoff and addressing other adverse impacts to water quality; and

(D) wildlife habitat loss; and

(8) to decrease any adverse impact of freight transportation on communities located near freight facilities or freight corridors.

(c) ESTABLISHMENT OF NATIONAL HIGHWAY FREIGHT NETWORK.—

(1) IN GENERAL.—The Administrator shall establish a National Highway Freight Network in accordance with this section to strategically direct Federal resources and policies toward improved performance of the Network.

(2) NETWORK COMPONENTS.—The National Highway Freight Network shall consist of—

(A) the primary highway freight system, as designated under subsection (d);

(B) critical rural freight corridors established under subsection (e);

(C) critical urban freight corridors established under subsection (f); and

(D) the portions of the Interstate System not designated as part of the primary highway freight system.

(d) DESIGNATION AND REDESIGNATION OF THE PRIMARY HIGHWAY FREIGHT SYSTEM.—

(1) INITIAL DESIGNATION OF PRIMARY HIGHWAY FREIGHT SYSTEM.—The initial designation of the primary highway freight system shall be the 41,518-mile network identified during the designation process for the primary freight network under section 167(d) of this title, as in effect on the day before the date of enactment of the FAST Act.

(2) REDESIGNATION OF PRIMARY HIGHWAY FREIGHT SYSTEM.—

(A) IN GENERAL.—Beginning 5 years after the date of enactment of the FAST Act, and every 5 years thereafter, using the designation factors described in subparagraph (E), the Administrator shall redesignate the primary highway freight system.

(B) REDESIGNATION MILEAGE.—Each redesignation may increase the mileage on the primary highway freight system by not more than 3 percent of the total mileage of the system.

(C) USE OF MEASURABLE DATA.—In redesignating the primary highway freight system, to the maximum extent practicable, the Administrator shall use measurable data to assess the significance of goods movement, including consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains.

(D) INPUT.—In redesignating the primary highway freight system, the Administrator shall provide an opportunity for State freight advisory committees, as applicable, to submit additional miles for consideration.

(E) FACTORS FOR REDESIGNATION.—In redesignating the primary highway freight system, the Administrator shall consider—

(i) changes in the origins and destinations of freight movement in, to, and from the United States;

(ii) changes in the percentage of annual daily truck traffic in the annual average daily traffic on principal arterials;

(iii) changes in the location of key facilities;

(iv) land and water ports of entry;

(v) access to energy exploration, development, installation, or production areas;

(vi) access to other freight intermodal facilities, including rail, air, water, and pipelines facilities;

(vii) the total freight tonnage and value moved via highways;

(viii) significant freight bottlenecks, as identified by the Administrator;

(ix) the significance of goods movement on principal arterials, including consideration of global and domestic supply chains;

(x) critical emerging freight corridors and critical commerce corridors; and

(xi) network connectivity.

(e) CRITICAL RURAL FREIGHT CORRIDORS.—

(1) IN GENERAL.—A State may designate a public road within the borders of the State as a critical rural freight corridor if the public road is not in an urbanized area and—

(A) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (Federal Highway Administration vehicle class 8 to 13);

(B) provides access to energy exploration, development, installation, or production areas;

(C) connects the primary highway freight system, a roadway described in subparagraph (A) or (B), or the Interstate System to facilities that handle more than—

(i) 50,000 20-foot equivalent units per year; or

(ii) 500,000 tons per year of bulk commodities;

(D) provides access to—

(i) a grain elevator;

(ii) an agricultural facility;
(iii) a mining facility;
(iv) a forestry facility; or
(v) an intermodal facility;

(E) connects to an international port of entry;

(F) provides access to significant air, rail, water, or other freight facilities in the State; or

(G) is, in the determination of the State, vital to improving the efficient movement of freight of importance to the economy of the State.

(2) LIMITATION.—A State may designate as critical rural freight corridors a maximum of 150 miles of highway or 20 percent of the primary highway freight system mileage in the State, whichever is greater.

(3) ADDITIONAL MILEAGE.—Notwithstanding paragraph (2), a State that has designated at least 90 percent of its maximum mileage described in paragraph (2) may designate up to an additional 150 miles of critical rural freight corridors.

(f) CRITICAL URBAN FREIGHT CORRIDORS.—

(1) URBANIZED AREA WITH POPULATION OF 500,000 OR MORE.—In an urbanized area with a population of 500,000 or more individuals, the representative metropolitan planning organization, in consultation with the State, may designate a public road within the borders of that area of the State as a critical urban freight corridor.

(2) URBANIZED AREA WITH A POPULATION LESS THAN 500,000.—In an urbanized area with a population of less than 500,000 individuals, the State, in consultation with the representative metropolitan planning organization, may designate a public road within the borders of that area of the State as a critical urban freight corridor.

(3) REQUIREMENTS FOR DESIGNATION.—A designation may be made under paragraph (1) or (2) if the public road—

(A) is in an urbanized area, regardless of population; and

(B)(i) connects an intermodal facility to—
(I) the primary highway freight system;
(II) the Interstate System; or
(III) an intermodal freight facility;

(ii) is located within a corridor of a route on the primary highway freight system and provides an alternative highway option important to goods movement;

(iii) serves a major freight generator, logistic center, or manufacturing and warehouse industrial land; or

(iv) is important to the movement of freight within the region, as determined by the metropolitan planning organization or the State.

(4) LIMITATION.—For each State, a maximum of 75 miles of highway or 10 percent of the primary highway freight system mileage in the State, whichever is greater, may be designated as a critical urban freight corridor under paragraphs (1) and (2).

(5) ADDITIONAL MILEAGE.—Notwithstanding paragraph (4), a State that has designated at least 90 percent of its maximum mileage described in paragraph (4) may designate up to an additional 75 miles of critical urban freight corridors under paragraphs (1) and (2).

(g) DESIGNATION AND CERTIFICATION.—

(1) DESIGNATION.—States and metropolitan planning organizations may designate corridors under subsections (e) and (f) and submit the designated corridors to the Administrator on a rolling basis.

(2) CERTIFICATION.—Each State or metropolitan planning organization that designates a corridor under subsection (e) or (f) shall certify to the Administrator that the designated corridor meets the requirements of the applicable subsection.

(h) HIGHWAY FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—[Not later than 2 years after the date of enactment of the FAST Act, and biennially thereafter, the Administrator shall prepare] *As part of the report required under section 503(b)(8), the Administrator shall biennially prepare* and submit to Congress a report that describes the conditions and performance of the National Highway Freight Network in the United States.

(i) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.—A State shall obligate funds apportioned to the State under section 104(b)(5) to improve the movement of freight on the National Highway Freight Network.

[(2) FORMULA.—The Administrator shall calculate for each State the proportion that—

[(A) the total mileage in the State designated as part of the primary highway freight system; bears to

[(B) the total mileage of the primary highway freight system in all States.

[(3) USE OF FUNDS.—

[(A) STATES WITH HIGH PRIMARY HIGHWAY FREIGHT SYSTEM MILEAGE.—If the proportion of a State under paragraph (2) is greater than or equal to 2 percent, the State may obligate funds apportioned to the State under section 104(b)(5) for projects on—

[(i) the primary highway freight system;

[(ii) critical rural freight corridors; and

[(iii) critical urban freight corridors.

[(B) STATES WITH LOW PRIMARY HIGHWAY FREIGHT SYSTEM MILEAGE.—If the proportion of a State under paragraph (2) is less than 2 percent, the State may obligate funds apportioned to the State under section 104(b)(5) for projects on any component of the National Highway Freight Network.

[(4) FREIGHT PLANNING.—Notwithstanding any other provision of law, effective beginning 2 years after the date of enactment of the FAST Act, a State may not obligate funds apportioned to the State under section 104(b)(5) unless the State has developed a freight plan in accordance with section 70202 of title 49, except that the multimodal component of the plan

may be incomplete before an obligation may be made under this section.]

(2) FREIGHT PLANNING.—Notwithstanding any other provision of law, a State may not obligate funds apportioned to the State under section 104(b)(5) unless the State has developed, updated, or amended, as applicable, a freight plan in accordance with section 70202 of title 49.

[(5)] *(3)* ELIGIBILITY.—

(A) IN GENERAL.—Except as provided in this subsection, for a project to be eligible for funding under this section the project shall—

(i) contribute to the efficient movement of freight on the National Highway Freight Network; and

(ii) be identified in a freight investment plan included in a freight plan of the State that is in effect.

[(B) OTHER PROJECTS.—For each fiscal year, a State may obligate not more than 10 percent of the total apportionment of the State under section 104(b)(5) for freight intermodal or freight rail projects, including projects—

[(i) within the boundaries of public or private freight rail or water facilities (including ports); and

[(ii) that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility.]

(B) LIMITATION.—The Federal share of a project described in subparagraph (C)(xxiii) shall fund only elements of such project that provide public benefits.

(C) ELIGIBLE PROJECTS.—Funds apportioned to the State under section 104(b)(5) for the national highway freight program may be obligated to carry out 1 or more of the following:

(i) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

(ii) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of equipment, and operational improvements directly relating to improving system performance.

(iii) Intelligent transportation systems and other technology to improve the flow of freight, including intelligent freight transportation systems *and freight management and operations systems*.

(iv) Efforts to reduce the environmental impacts of freight movement.

(v) Environmental and community mitigation for freight movement.

(vi) Railway-highway grade separation.

(vii) Geometric improvements to interchanges and ramps.

(viii) Truck-only lanes.

(ix) Climbing and runaway truck lanes.

(x) Adding or widening of shoulders.

(xi) Truck parking facilities eligible for funding under section 1401 of MAP–21 (23 U.S.C. 137 note).

(xii) Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.

(xiii) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

(xiv) Traffic signal optimization, including synchronized and adaptive signals.

(xv) Work zone management and information systems.

(xvi) Highway ramp metering.

(xvii) Electronic cargo and border security technologies that improve truck freight movement.

(xviii) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

(xix) Additional road capacity to address highway freight bottlenecks.

(xx) Physical separation of passenger vehicles from commercial motor freight.

(xxi) Enhancement of the resiliency of critical highway infrastructure, including highway infrastructure that supports national energy security, to improve the flow of freight.

(xxii) A highway or bridge project, other than a project described in clauses (i) through (xxi), to improve the flow of freight on the National Highway Freight Network.

[(xxiii) Any other surface transportation project to improve the flow of freight into and out of a facility described in subparagraph (B).**]**

(xxiii) Freight intermodal or freight rail projects, including—

(I) projects within the boundaries of public or private freight rail or water facilities (including ports);

(II) projects that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility; and

(III) any other surface transportation project to improve the flow of freight into or out of a facility described in subclause (I) or (II).

[(6)**]** *(4)* OTHER ELIGIBLE COSTS.—In addition to the eligible projects identified in **[**paragraph (5)**]** *paragraph (3)*, a State may use funds apportioned under section 104(b)(5) for—

(A) carrying out diesel retrofit or alternative fuel projects under section 149 for class 8 vehicles; and

(B) the necessary costs of—

(i) conducting analyses and data collection related to the national highway freight program;

(ii) developing and updating performance targets to carry out this section; and

(iii) reporting to the Administrator to comply with the freight performance target under section 150.

[(7)] *(5)* APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135.

(j) STATE PERFORMANCE TARGETS.—If the Administrator determines that a State has not met or made significant progress toward meeting the performance targets related to freight movement of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, the State shall include in the next report submitted under section 150(e) a description of the actions the State will undertake to achieve the targets, including—

(1) an identification of significant freight system trends, needs, and issues within the State;

(2) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

(3) an inventory of freight bottlenecks within the State and a description of the ways in which the State is allocating national highway freight program funds to improve those bottlenecks; and

(4) a description of the actions the State will undertake to meet the performance targets of the State.

(k) INTELLIGENT FREIGHT TRANSPORTATION SYSTEM.—

(1) DEFINITION OF INTELLIGENT FREIGHT TRANSPORTATION SYSTEM.—In this section, the term "intelligent freight transportation system" means—

(A) innovative or intelligent technological transportation systems, infrastructure, or facilities, including elevated freight transportation facilities—

(i) in proximity to, or within, an existing right of way on a Federal-aid highway; or

(ii) that connect land [ports-of entry] *ports-of-entry* to existing Federal-aid highways; or

(B) communications or information processing systems that improve the efficiency, security, or safety of freight movements on the Federal-aid highway system, including to improve the conveyance of freight on dedicated intelligent freight lanes.

(2) OPERATING STANDARDS.—The Administrator shall determine whether there is a need for establishing operating standards for intelligent freight transportation systems.

(l) TREATMENT OF FREIGHT PROJECTS.—Notwithstanding any other provision of law, a freight project carried out under this sec-

tion shall be treated as if the project were on a Federal-aid highway.

* * * * * * *

§ 171. Carbon pollution reduction

(a) ESTABLISHMENT.—The Secretary shall establish a carbon pollution reduction program to support the reduction of greenhouse gas emissions from the surface transportation system.

(b) ELIGIBLE PROJECTS.—A project is eligible for funding under this section if such project—

(1) is expected to yield a significant reduction in greenhouse gas emissions from the surface transportation system;

(2) will help a State meet the greenhouse gas emissions performance targets established under section 150(c)(7); and

(3) is—

(A) eligible for assistance under this title or under chapter 53 of title 49; or

(B) a capital project, as such term is defined in section 22906 of title 49, to improve intercity rail passenger transportation, provided that the project will yield a significant reduction in single occupant vehicle trips and improve mobility on public roads.

(c) GUIDANCE.—The Secretary shall issue guidance on methods of determining the reduction of single occupant vehicle trips and improvement of mobility on public roads as those factors relate to intercity rail passenger transportation projects under subsection (b)(4).

(d) OPERATING EXPENSES.—A State may use not more than 10 percent of the funds provided under section 104(b)(9) for the operating expenses of public transportation and passenger rail transportation projects.

(e) SINGLE-OCCUPANCY VEHICLE HIGHWAY FACILITIES.—None of the funds provided under this section may be used for a project that will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility and is consistent with section 166.

(f) EVALUATION.—

(1) IN GENERAL.—The Secretary shall annually evaluate the progress of each State in carrying out the program under this section by comparing the percent change in carbon dioxide emissions per capita on public roads in the State calculated as—

(A) the annual carbon dioxide emissions per capita on public roads in the State for the most recent year for which there is data; divided by

(B) the average annual carbon dioxide emissions per capita on public roads in the State in calendar years 2015 through 2019.

(2) MEASURES.—In conducting the evaluation under paragraph (1), the Secretary shall—

(A) prior to the effective date of the greenhouse gas performance measures under section 150(c)(7), use such data

as are available, which may include data on motor fuels usage published by the Federal Highway Administration and information on emissions factors or coefficients published by the Energy Information Administration of the Department of Energy; and

(B) following the effective date of the greenhouse gas performance measures under section 150(c)(7), use such measures.

(g) PROGRESS REPORT.—The Secretary shall annually issue a carbon pollution reduction progress report, to be made publicly available on the website of the Department of Transportation, that includes—

(1) the results of the evaluation under subsection (f) for each State; and

(2) a ranking of all the States by the criteria under subsection (f), with the States that, for the year covered by such report, have the largest percentage reduction in annual carbon dioxide emissions per capita on public roads being ranked the highest.

(h) HIGH-PERFORMING STATES.—

(1) DESIGNATION.—For purposes of this section, each State that is 1 of the 15 highest ranked States, as determined under subsection (g)(2), and that achieves a reduction in carbon dioxide emissions per capita on public roads, as determined by the evaluation in subsection (f), shall be designated as a high-performing State for the following fiscal year.

(2) USE OF FUNDS.—For each State that is designated as a high-performing State under paragraph (1)—

(A) notwithstanding section 120, the State may use funds made available under this title to pay the non-Federal share of a project under this section during any year for which such State is designated as a high-performing State; and

(B) notwithstanding section 126, the State may transfer up to 50 percent of funds apportioned under section 104(b)(9) to the program under section 104(b)(2) in any year for which such State is designated as a high-performing State.

(3) TRANSFER.—For each State that is 1 of the 15 lowest ranked States, as determined under subsection (g)(2), the Secretary shall transfer 10 percent of the amount apportioned to the State under section 104(b)(2) in the fiscal year following the year in which the State is so ranked, not including amounts set aside under section 133(d)(1)(A) and under section 133(h) or 505(a), to the apportionment of the State under section 104(b)(9).

(4) LIMITATION.—The Secretary shall not conduct a transfer under paragraph (3)—

(A) until the first fiscal year following the effective date of greenhouse gas performance measures under section 150(c)(7); and

(B) with respect to a State in any fiscal year following the year in which such State achieves a reduction in carbon

dioxide emissions per capita on public roads in such year as determined by the evaluation under subsection (f).

(i) REPORT.—Not later than 2 years after the date of enactment of this section and periodically thereafter, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue a report—

(1) detailing, based on the best available science, what types of projects eligible for assistance under this section are expected to provide the most significant greenhouse gas emissions reductions from the surface transportation sector; and

(2) detailing, based on the best available science, what types of projects eligible for assistance under this section are not expected to provide significant greenhouse gas emissions reductions from the surface transportation sector.

§ 172. Community climate innovation grants

(a) ESTABLISHMENT.—The Secretary shall establish a community climate innovation grant program (in this section referred to as the "Program") to make grants, on a competitive basis, for locally selected projects that reduce greenhouse gas emissions while improving the mobility, accessibility, and connectivity of the surface transportation system.

(b) PURPOSE.—The purpose of the Program shall be to support communities in reducing greenhouse gas emissions from the surface transportation system.

(c) ELIGIBLE APPLICANTS.—The Secretary may make grants under the Program to the following entities:

(1) A metropolitan planning organization.

(2) A unit of local government or a group of local governments, or a county or multi-county special district.

(3) A subdivision of a local government.

(4) A transit agency.

(5) A special purpose district with a transportation function or a port authority.

(6) A Tribal government or a consortium of tribal governments.

(7) A territory.

(8) A multijurisdictional group of entities described in paragraphs (1) through (7).

(d) APPLICATIONS.—To be eligible for a grant under the Program, an entity specified in subsection (c) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines appropriate.

(e) ELIGIBLE PROJECTS.—The Secretary may only provide a grant under the Program for a project that is expected to yield a significant reduction in greenhouse gas emissions from the surface transportation system and—

(1) is a project eligible for assistance under this title or under chapter 53 of title 49 or supports fueling infrastructure for fuels defined under section 9001(5) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101(5)); or

(2) is a capital project as defined in section 22906 of title 49 to improve intercity passenger rail that will yield a signifi-

cant reduction in single occupant vehicle trips and improve mobility on public roads.

(f) ELIGIBLE USES.—Grant amounts received for a project under the Program may be used for—

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

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

(g) PROJECT PRIORITIZATION.—In making grants for projects under the Program, the Secretary shall give priority to projects that are expected to yield the most significant reductions in greenhouse gas emissions from the surface transportation system.

(h) ADDITIONAL CONSIDERATIONS.—In making grants for projects under the Program, the Secretary shall consider the extent to which—

(1) a project maximizes greenhouse gas reductions in a cost-effective manner;

(2) a project reduces dependence on single-occupant vehicle trips or provides additional transportation options;

(3) a project improves the connectivity and accessibility of the surface transportation system, particularly to low- and zero-emission forms of transportation, including public transportation, walking, and bicycling;

(4) an applicant has adequately considered or will adequately consider, including through the opportunity for public comment, the environmental justice and equity impacts of the project;

(5) a project contributes to geographic diversity among grant recipients, including to achieve a balance between urban, suburban, and rural communities;

(6) a project serves low-income residents of low-income communities, including areas of persistent poverty, while not displacing such residents;

(7) a project uses pavement materials that demonstrate reductions in greenhouse gas emissions through sequestration or innovative manufacturing processes;

(8) a project repurposes neglected or underused infrastructure, including abandoned highways, bridges, railways, trail ways, and adjacent underused spaces, into new hybrid forms of public space that support multiple modes of transportation; and

(9) a project includes regional multimodal transportation system management and operations elements that will improve the effectiveness of such project and encourage reduction of single occupancy trips by providing the ability of users to plan, use, and pay for multimodal transportation alternatives.

(i) FUNDING.—

(1) MAXIMUM AMOUNT.—The maximum amount of a grant under the Program shall be $25,000,000.

(2) TECHNICAL ASSISTANCE.—Of the amounts made available to carry out the Program, the Secretary may use up to 1 percent to provide technical assistance to applicants and potential applicants.

(j) TREATMENT OF PROJECTS.—

(1) FEDERAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

(A) the requirements of this title to a highway project;

(B) the requirements of chapter 53 of title 49 to a public transportation project; and

(C) the requirements of section 22905 of title 49 to a passenger rail or freight rail project.

(2) MULTIMODAL PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

(i) determine the predominant modal component of the project; and

(ii) apply the applicable requirements of such predominant modal component to the project.

(B) EXCEPTIONS.—

(i) PASSENGER OR FREIGHT RAIL COMPONENT.—For any passenger or freight rail component of a project, the requirements of section 22907(j)(2) of title 49 shall apply.

(ii) PUBLIC TRANSPORTATION COMPONENT.—For any public transportation component of a project, the requirements of section 5333 of title 49 shall apply.

(C) BUY AMERICA.—In applying the Buy American requirements under section 313 of this title and sections 5320, 22905(a), and 24305(f) of title 49 to a multimodal project under this paragraph, the Secretary shall—

(i) consider the various modal components of the project; and

(ii) seek to maximize domestic jobs.

(3) FEDERAL-AID HIGHWAY REQUIREMENTS.—Notwithstanding any other provision of this subsection, the Secretary shall require recipients of grants under this section to comply with subsection (a) of section 113 with respect to public transportation projects, passenger rail projects, and freight rail projects, in the same manner that recipients of grants are required to comply with such subsection for construction work performed on highway projects on Federal-aid highways.

(k) SINGLE-OCCUPANCY VEHICLE HIGHWAY FACILITIES.—None of the funds provided under this section may be used for a project that will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high-occupancy vehicle facility and is consistent with section 166.

(l) DEFINITION OF AREAS OF PERSISTENT POVERTY.—In this section, the term "areas of persistent poverty" means—

(1) any county that has had 20 percent or more of the population of such county living in poverty over the past 30 years,

as measured by the 1990 and 2000 decennial censuses and the most recent Small Area Income and Poverty Estimates;

(2) any census tract with a poverty rate of at least 20 percent, as measured by the most recent 5-year data series available from the American Community Survey of the Bureau of the Census for all States and Puerto Rico; or

(3) any other territory or possession of the United States that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990, 2000, and 2010 island areas decennial censuses, or equivalent data, of the Bureau of the Census.

§ 173. Community transportation investment grant program

(a) ESTABLISHMENT.—The Secretary shall establish a community transportation investment grant program to improve surface transportation safety, state of good repair, accessibility, and environmental quality through infrastructure investments.

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Secretary shall make grants, on a competitive basis, to eligible entities in accordance with this section.

(2) GRANT AMOUNT.—The maximum amount of a grant under this section shall be $25,000,000.

(c) APPLICATIONS.—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

(d) ELIGIBLE PROJECT COSTS.—Grant amounts for an eligible project carried out under this section may be used for—

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

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

(e) RURAL AND COMMUNITY SETASIDES.—

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

(A) not less than 25 percent of the amounts made available to carry out this section for projects located in rural areas; and

(B) not less than 25 percent of the amounts made available to carry out this section for projects located in urbanized areas with a population greater than 49,999 individuals and fewer than 200,001 individuals.

(2) DEFINITION OF RURAL AREA.—In this subsection, the term "rural area" means all areas of a State or territory not included in urbanized areas.

(3) EXCESS FUNDING.—If the Secretary determines that there are insufficient qualified applicants to use the funds set

aside under this subsection, the Secretary may use such funds for grants for any projects eligible under this section.

(f) EVALUATION.—To evaluate applications under this section, the Secretary shall—

(1) develop a process to objectively evaluate applications on the benefits of the project proposed in such application—

(A) to transportation safety, including reductions in traffic fatalities and serious injuries;

(B) to state of good repair, including improved condition of bridges and pavements;

(C) to transportation system access, including improved access to jobs and services; and

(D) in reducing greenhouse gas emissions;

(2) develop a rating system to assign a numeric value to each application, based on each of the criteria described in paragraph (1);

(3) for each application submitted, compare the total benefits of the proposed project, as determined by the rating system developed under paragraph (2), with the costs of such project, and rank each application based on the results of the comparison; and

(4) ensure that only such applications that are ranked highly based on the results of the comparison conducted under paragraph (3) are considered to receive a grant under this section.

(g) WEIGHTING.—In establishing the evaluation process under subsection (f), the Secretary may assign different weights to the criteria described in subsection (f)(1) based on project type, population served by a project, and other context-sensitive considerations, provided that—

(1) each application is rated on all criteria described in subsection (f)(1); and

(2) each application has the same possible minimum and maximum rating, regardless of any differences in the weighting of criteria.

(h) TRANSPARENCY.—

(1) PUBLICLY AVAILABLE INFORMATION.—Prior to the issuance of any notice of funding opportunity under this section, the Secretary shall make publicly available on the website of the Department of Transportation a detailed explanation of the evaluation and rating process developed under subsection (f), including any differences in the weighting of criteria pursuant to subsection (g), if applicable, and update such website for each revision of the evaluation and rating process.

(2) NOTIFICATIONS TO CONGRESS.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Commerce, Science, and Transportation of the Senate the following written notifications:

(A) A notification when the Secretary publishes or updates the information required under paragraph (1).

(B) Not later than 30 days prior to the date on which the Secretary awards a grant under this section, a notification that includes—

(i) the ratings of each application submitted pursuant to subsection (f)(2);

(ii) the ranking of each application submitted pursuant to subsection (f)(3); and

(iii) a list of all applications that receive final consideration by the Secretary to receive an award under this section pursuant to subsection (f)(4).

(C) Not later than 3 business days prior to the date on which the Secretary announces the award of a grant under this section, a notification describing each grant to be awarded, including the amount and the recipient.

(i) TECHNICAL ASSISTANCE.—Of the amounts made available to carry out this section, the Secretary may reserve up to $3,000,000 to provide technical assistance to eligible entities.

(j) ADMINISTRATION.—Of the amounts made available to carry out this section, the Secretary may reserve up to $5,000,000 for the administrative costs of carrying out the program under this section.

(k) TREATMENT OF PROJECTS.—

(1) FEDERAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

(A) the requirements of this title to a highway project;

(B) the requirements of chapter 53 of title 49 to a public transportation project; and

(C) the requirements of section 22905 of title 49 to a passenger rail or freight rail project.

(2) MULTIMODAL PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

(i) determine the predominant modal component of the project; and

(ii) apply the applicable requirements of such predominant modal component to the project.

(B) EXCEPTIONS.—

(i) PASSENGER OR FREIGHT RAIL COMPONENT.—For any passenger or freight rail component of a project, the requirements of section 22907(j)(2) of title 49 shall apply.

(ii) PUBLIC TRANSPORTATION COMPONENT.—For any public transportation component of a project, the requirements of section 5333 of title 49 shall apply.

(C) BUY AMERICA.—In applying the Buy American requirements under section 313 of this title and sections 5320, 22905(a), and 24305(f) of title 49 to a multimodal project under this paragraph, the Secretary shall—

(i) consider the various modal components of the project; and

(ii) seek to maximize domestic jobs.

(3) FEDERAL-AID HIGHWAY REQUIREMENTS.—Notwithstanding any other provision of this subsection, the Secretary

shall require recipients of grants under this section to comply with subsection (a) of section 113 with respect to public transportation projects, passenger rail projects, and freight rail projects, in the same manner that recipients of grants are required to comply with such subsection for construction work performed on highway projects on Federal-aid highways.

(l) TRANSPARENCY.—

(1) IN GENERAL.—Not later than 30 days after awarding a grant for a project under this section, the Secretary shall send to all applicants, and publish on the website of the Department of Transportation—

(A) a summary of each application made to the program for the grant application period; and

(B) the evaluation and justification for the project selection, including ratings and rankings assigned to all applications and a list of applications that received final consideration by the Secretary to receive an award under this section, for the grant application period.

(2) BRIEFING.—The Secretary shall provide, at the request of a grant applicant under this section, the opportunity to receive a briefing to explain any reasons the grant applicant was not awarded a grant.

(m) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a metropolitan planning organization;

(B) a unit of local government;

(C) a transit agency;

(D) a Tribal Government or a consortium of Tribal governments;

(E) a multijurisdictional group of entities described in this paragraph;

(F) a special purpose district with a transportation function or a port authority;

(G) a territory; or

(H) a State that applies for a grant under this section jointly with an entity described in subparagraphs (A) through (G).

(2) ELIGIBLE PROJECT.—The term "eligible project" means any project eligible under this title or chapter 53 of title 49.

§ 174. Balance Exchanges for Infrastructure Program

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATIVELY ALLOCATED.—The term "administratively allocated" means the allocation by the Secretary of budget authority for a project under the TIFIA program that occurs when—

(A) a potential applicant has been invited into the creditworthiness phase for a project under the TIFIA program; or

(B) the project is subject to a master credit agreement (as defined in section 601(a)), in accordance with section 602(b)(2).

(2) APPALACHIAN STATE.—The term "Appalachian State" means a State that contains 1 or more counties in the Appalachian region (as defined in section 14102(a) of title 40).

(3) PROGRAM.—The term "program" means the Balance Exchanges for Infrastructure Program established under subsection (b).

(4) TIFIA CARRYOVER BALANCE.—

(A) IN GENERAL.—The term "TIFIA carryover balance" means the amounts made available for the TIFIA program for previous fiscal years that are unobligated and have not been administratively allocated.

(B) INCLUSION.—The term "TIFIA carryover balance" includes—

(i) the applicable amount of contract authority for the amounts described in subparagraph (A); and

(ii) the equivalent amount of obligation limitation for the fiscal year in which the Secretary makes a transfer under subsection (f)(2).

(5) TIFIA PROGRAM.—The term "TIFIA program" has the meaning given the term in section 601(a).

(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the "Balance Exchanges for Infrastructure Program", in accordance with this section to provide flexibility for the Secretary and States to improve highway infrastructure.

(c) OFFER TO FUND PROJECTS OR EXCHANGE FUNDS.—

(1) SOLICITATION.—For each fiscal year for which an amount is reserved under subsection (f)(1), the Secretary shall—

(A) not later than December 1 of that fiscal year—

(i) solicit requests from Appalachian States to return amounts under subsection (d)(1)(A); and

(ii) solicit applications from Appalachian States for grants under subsection (e); and

(B) require that, not later than 60 days after the date of the solicitations under subparagraph (A), each Appalachian State that elects to participate in the program shall submit to the Secretary either—

(i) a request that describes the amount that the Appalachian State requests to return under subsection (d)(1)(A); or

(ii) an application for a grant under subsection (e).

(d) EXCHANGE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with each Appalachian State that submits a request under subsection (c)(1)(A)(i) under which—

(A) the Appalachian State shall return to the Secretary all, or at the discretion of the Appalachian State, a portion of, the unobligated amounts from the Highway Trust Fund (including the applicable amount of contract authority and an equal amount of special no-year obligation limitation associated with that contract authority) apportioned to the Appalachian State for the Appalachian development highway system under section 14501 of title 40 (but not includ-

ing any amounts made available by an appropriations Act without an initial authorization); and

(B) the Secretary shall transfer to the Appalachian State, from amounts transferred to the program under subsection (f)(2) for that fiscal year, an amount (including the applicable amount of contract authority and an equal amount of annual obligation limitation) equal to the amount that the Appalachian State returned under subparagraph (A) that shall be used to carry out projects described in paragraph (3).

(2) STATE LIMITATION.—The amount of contract authority returned by an Appalachian State under paragraph (1)(A) may not exceed the amount of the special no-year obligation limitation available to the Appalachian State prior to the return of the special no-year obligation limitation under that paragraph.

(3) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—A project eligible to be carried out using funds transferred to an Appalachian State under paragraph (1)(B) is a project described in subsections (b) and (c) of section 133.

(B) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds transferred to an Appalachian State under paragraph (1)(B) shall be up to 100 percent, at the discretion of the Appalachian State.

(C) APPLICATION OF SECTION 133.—Except as otherwise provided in this paragraph, section 133 shall not apply to a project carried out using funds transferred to an Appalachian State under paragraph (1)(B).

(4) TOTAL LIMITATION.—For each fiscal year, the total amount exchanged under paragraph (1) shall not exceed the amount available to be transferred to the program under subsection (f).

(5) AMOUNTS EXCHANGED.—For each fiscal year, if the total amount requested by all Appalachian States to return under paragraph (1)(A) is greater than the amount described in paragraph (4), the Secretary shall exchange amounts under paragraph (1) based on the proportion that—

(A) the amount requested to be returned for the fiscal year by the Appalachian State; bears to

(B) the amount requested to be returned for the fiscal year by all Appalachian States.

(e) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM CORRIDOR GRANTS.—

(1) IN GENERAL.—Using amounts returned to the Secretary under subsection (d)(1)(A), the Secretary shall provide grants of contract authority, to remain available until expended, and subject to special no-year obligation limitation, on a competitive basis to Appalachian States for eligible projects described in paragraph (2).

(2) ELIGIBLE PROJECT.—A project eligible to be carried out with a grant under this subsection is a project that is—

(A) eligible under section 14501 of title 40 as of the date of enactment of this section; and

(B) reasonably expected to begin construction by not later than 2 years after the date of obligation of funds provided under this subsection for the project.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, an Appalachian State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out using a grant provided under this subsection shall be up to 100 percent, at the discretion of the Appalachian State.

(5) LIMITATION.—An Appalachian State that enters into an agreement to exchange funds under subsection (d) for any fiscal year shall not be eligible to receive a grant under this subsection.

(f) TRANSFER FROM TIFIA PROGRAM.—

(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall reserve, for the purpose of funding transfers under paragraph (2) until the transfers are completed, the amount of TIFIA carryover balance that exceeds the amount available to carry out the TIFIA program for that fiscal year.

(2) TRANSFERS.—For each fiscal year, not later than 60 days after the date on which the Secretary receives the responses to the solicitations under subsection (c)(1), the Secretary shall transfer from the TIFIA program to the program an amount of contract authority and equal amount of obligation limitation that is equal to the lesser of—

(A) the total amount requested by all Appalachian States for the fiscal year under subsection (c)(1)(B)(i);

(B) the total amount requested by all Appalachian States for grants under subsection (c)(1)(B)(ii); and

(C) the amount reserved under paragraph (1).

* * * * * * *

CHAPTER 2—OTHER HIGHWAYS

§ 201. Federal lands and tribal transportation programs

(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to

Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

(b) AVAILABILITY OF FUNDS.—

(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

(4) EXPENDITURE.—

(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

(i) credited to the balance of unobligated authorizations; and

(ii) immediately available for expenditure.

(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

(6) CONTRACTUAL OBLIGATION.—

(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

(i) any project funded under this title; and

(ii) any project funded pursuant to agreements authorized by this title or any other title.

(B) EFFECT.—Nothing in this paragraph—

(i) affects the application of the Federal share associated with the project being undertaken under this section; or

(ii) modifies the point of obligation associated with Federal salaries and expenses.

(7) FEDERAL SHARE.—

(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

(c) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

(A) developed in cooperation with State and metropolitan planning organizations; and

(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

(6) DATA COLLECTION.—

(A) DATA COLLECTION.—

(i) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal

lands transportation program, the Federal lands access program, and the tribal transportation program.

(ii) REQUIREMENT.—Data collected to implement the tribal transportation program shall be in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(iii) INCLUSIONS.—Data collected under this paragraph includes—

(I) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

(II) bridge inspection and inventory information on any Federal bridge open to the public.

(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

(C) TRIBAL DATA COLLECTION.—In addition to the data to be collected under subparagraph (A), not later than 90 days after the last day of each fiscal year, any entity carrying out a project under the tribal transportation program under section 202 shall submit to the Secretary and the Secretary of the Interior, based on obligations and expenditures under the tribal transportation program during the preceding fiscal year, the following data:

(i) The names of projects and activities carried out by the entity under the tribal transportation program during the preceding fiscal year.

(ii) A description of the projects and activities identified under clause (i).

(iii) The current status of the projects and activities identified under clause (i).

(iv) An estimate of the number of jobs created and the number of jobs retained by the projects and activities identified under clause (i).

(7) COOPERATIVE RESEARCH AND TECHNOLOGY DEPLOYMENT.—The Secretary may conduct cooperative research and technology deployment in coordination with Federal land management agencies, as determined appropriate by the Secretary.

(8) FUNDING.—

(A) IN GENERAL.—To carry out the activities described in this subsection for Federal lands transportation facilities, Federal lands access transportation facilities, and other federally owned roads open to public travel (as that term is defined in ⟦section 125(e)⟧ *section 125(g)*), the Secretary shall for each fiscal year combine and use not greater than 5 percent of the funds authorized for programs under sections 203 and 204.

(B) OTHER ACTIVITIES.—In addition to the activities described in subparagraph (A), funds described under that subparagraph may be used for—

(i) bridge inspections on any federally owned bridge even if that bridge is not included on the inventory described under section 203; and

(ii) transportation planning activities carried out by Federal land management agencies eligible for funding under this chapter.

(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

(e) TRANSFERS.—

(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

(A) the Secretary;

(B) the affected Secretaries of the respective Federal land management agencies;

(C) State departments of transportation; and

(D) local government agencies.

(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

(f) ALTERNATIVE CONTRACTING METHODS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may use a contracting method available to a State under this title on behalf of—

(A) a Federal land management agency, with respect to any funds available pursuant to section 203 or 204;

(B) a Federal land management agency, with respect to any funds available pursuant to section 1535 of title 31 for any eligible use described in sections 203(a)(1) and 204(a)(1) of this title; or

(C) a Tribal Government, with respect to any funds available pursuant to section 202(b)(7)(D).

(2) METHODS DESCRIBED.—The contracting methods referred to in paragraph (1) shall include, at a minimum—

(A) project bundling;

(B) bridge bundling;

(C) design-build contracting;

(D) 2-phase contracting;

(E) long-term concession agreements; and

(F) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection—

(A) affects the application of the Federal share for a project carried out with a contracting method under this subsection; or

(B) modifies the point of obligation of Federal salaries and expenses.

§ 202. Tribal transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

(ii) adjacent vehicular parking areas;

(iii) interpretive signage;

(iv) acquisition of necessary scenic easements and scenic or historic sites;

(v) provisions for pedestrians and bicycles;

(vi) environmental mitigation in or adjacent to tribal land—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

(viii) other appropriate public road facilities as determined by the Secretary;

(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

(6) ADMINISTRATIVE EXPENSES.—Of the funds authorized to be appropriated for the tribal transportation program, not more than 5 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(7) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

(8) MAINTENANCE.—

(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

(i) an amount equal to 25 percent; or

(ii) $500,000.

(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

(I) tribal transportation facilities; and

(II) roads providing access to tribal transportation facilities.

(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

(I) be negotiated between the State and the Indian tribe; and

(II) not require the approval of the Secretary.

(9) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

(10) COMPETITIVE BIDDING.—

(A) CONSTRUCTION.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

(b) FUNDS DISTRIBUTION.—

(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

(ii) are owned by an Indian tribal government;

(iii) are owned by the Bureau of Indian Affairs;

(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

(3) BASIS FOR FUNDING FORMULA.—

(A) BASIS.—

(i) IN GENERAL.—After making the set asides authorized under subparagraph (C) and subsections (a)(6), (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

(I) For fiscal year 2013—

(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(II) For fiscal year 2014—

(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and

population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(III) For fiscal year 2015—

(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(IV) For fiscal year 2016 and thereafter—

(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

(i) 27 percent in the ratio that the total eligible road mileage in each tribe bears to the total eligible road mileage of all American Indians and Alaskan Natives. For the purposes of this calculation, eligible road mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B).

(ii) 39 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

(iii) 34 percent shall be divided equally among each Bureau of Indian Affairs region. Within each region, such share of funds shall be distributed to each Indian tribe in the ratio that the average total relative need distribution factors and population adjustment factors from fiscal years 2005 through 2011 for a tribe

bears to the average total of relative need distribution factors and population adjustment factors for fiscal years 2005 through 2011 in that region.

(C) TRIBAL SUPPLEMENTAL FUNDING.—

(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 30 percent of such amount.

(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

(aa) $82,500,000; plus

(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of $275,000,000.

(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21); and

(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such relative need distribution factor and population adjustment factor in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B).

(bb) COMBINED AMOUNT.—Subject to subclause (III), the Secretary shall distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region's funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).

(4) TRANSFERRED FUNDS.—

(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),[1] if the Indian tribal government—

(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and ⟦section 125(e)⟧ *section 125(d)* for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),[1] contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which

the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

(F) ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) [1] during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that in-

herently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).[1]

(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).[1]

(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),[1] the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(c) PLANNING.—

(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).[1]

(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

(A) selected by the Indian tribal government from the transportation improvement program; and

(B) subject to the approval of the Secretary of the Interior and the Secretary.

(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for **[**improving deficient**]** *the construction and reconstruction of* bridges eligible for the tribal transportation program.

(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 3 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to *construct,* replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

(B) to implement any countermeasure for ⟦deficient⟧ tribal transportation facility bridges *in poor condition*, including multiple-pipe culverts.

(3) ⟦ELIGIBLE BRIDGES⟧ *ELIGIBILITY FOR EXISTING BRIDGES*.—To be eligible to receive funding under this subsection, ⟦a bridge⟧ *an existing bridge* described in paragraph (1) shall—

(A) have an opening of not less than 20 feet;

(B) be classified as a tribal transportation facility; and

(C) be ⟦structurally deficient or functionally obsolete⟧ *in poor condition*.

(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

(e) SAFETY.—

(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments ⟦for eligible projects described in section 148(a)(4).⟧ *for—*

(A) eligible projects described in section 148(a)(4);

(B) projects to promote public awareness and education concerning highway safety matters (including bicycle, all-terrain, motorcyclist, and pedestrian safety); or

(C) projects to enforce highway safety laws.

(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

(f) TRIBAL HIGH PRIORITY PROJECTS PROGRAM.—Before making any distribution under subsection (b), the Secretary shall set aside $50,000,000 from the funds made available under the tribal transportation program for each fiscal year to carry out the Tribal High Priority Projects program under section 1123 of MAP–21 (23 U.S.C. 202 note).

[(f)] *(g)* FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

§ 203. Federal lands transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

(i) adjacent vehicular parking areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provision for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land open to the public—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) congestion mitigation; and

(vii) other appropriate public road facilities, as determined by the Secretary;

(B) capital, operations, and maintenance of transit facilities;

(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

(D) not more $10,000,000 of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv)(I).

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(6) TRANSFER FOR HIGH-COMMUTER CORRIDORS.—

(A) REQUEST.—If the head of a covered agency determines that a high-commuter corridor requires additional investment, based on the criteria described in subparagraph (D), the head of a covered agency, with respect to such corridor, shall submit to the State—

(i) information on condition of pavements and bridges;

(ii) an estimate of the amounts needed to bring such corridor into a state of good repair, taking into consideration any planned future investments; and

(iii) at the discretion of the head of a covered agency, a request that the State transfer to the covered agency, under the authority of section 132 or section 204, or to the Federal Highway Administration, under the authority of section 104, a portion of such amounts necessary to address the condition of the corridor.

(B) STATE RESPONSE.—Not later than 45 days after the date of receipt of the request described in subparagraph (A)(iii), the State shall—

(i) approve the request;

(ii) deny the request and explain the reasons for such denial; or

(iii) request any additional information necessary to take action on the request.

(C) NOTIFICATION TO THE SECRETARY.—The head of a covered agency shall provide to the Secretary a copy of any request described under subparagraph (A)(iii) and response described under subparagraph (B).

(D) CRITERIA.—In making a determination under subparagraph (A), the head of a covered agency, with respect to the corridor, shall consider—

(i) the condition of roads, bridges, and tunnels; and

(ii) the average annual daily traffic.

(E) DEFINITIONS.—In this paragraph:

(i) COVERED AGENCY.—The term "covered agency" means a Federal agency eligible to receive funds under this section or section, section 203, or section 204.

(ii) HIGH-COMMUTER CORRIDOR.—The term "high-commuter corridor" means a Federal lands transportation facility that has average annual daily traffic of not less than 20,000 vehicles.

(b) AGENCY PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

(i) the National Park Service;

(ii) the Forest Service;

(iii) the United States Fish and Wildlife Service;

(iv) the Corps of Engineers;

(v) the Bureau of Land Management;

(vi) the Bureau of Reclamation; and

(vii) independent Federal agencies with natural resource and land management responsibilities.

(2) APPLICATIONS.—

(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support performance management, including—

(i) the transportation goals of—

(I) a state of good repair of transportation facilities;

(II) a reduction of bridge deficiencies; and

(III) an improvement of safety;

(ii) high-use Federal recreational sites or Federal economic generators; and

(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

(B) are owned by 1 of the following agencies:

(i) The National Park Service.

(ii) The Forest Service.

(iii) The United States Fish and Wildlife Service.

(iv) The Bureau of Land Management.

(v) The Corps of Engineers.

(vi) The Bureau of Reclamation.

(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

* * * * * * *

§ 206. Recreational trails program

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

(1) MOTORIZED RECREATION.—The term "motorized recreation" means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

(2) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as—

(A) pedestrian activities, including wheelchair use;

(B) skating or skateboarding;

(C) equestrian activities, including carriage driving;

(D) nonmotorized snow trail activities, including skiing;

(E) bicycling or use of other human-powered vehicles;

(F) aquatic or water activities; and

(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails.

(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

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

(2) the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year.

(d) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.—Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that—

(A) have been planned and developed under the laws, policies, and administrative procedures of the State; and

(B) are identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by chapter 2003 of title 54, that is in effect.

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

(A) maintenance and restoration of existing recreational trails;

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

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

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

(i) permissible under other law;

(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by chapter 2003 of title 54 and that is in effect;

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

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

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

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

(G) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the use of recreational trails, supporting nonlaw enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.

(3) USE OF APPORTIONMENTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), of the apportionments made to a State for a fiscal year to carry out this section—

(i) 40 percent shall be used for recreational trail or related projects that facilitate diverse recreational trail use within a recreational trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

(ii) 30 percent shall be used for uses relating to motorized recreation; and

(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres shall be exempt from the requirements of clauses (ii) and (iii) of subparagraph (A).

(C) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(H) shall be exempt from the requirements of subparagraph (A).

(4) GRANTS.—

(A) IN GENERAL.—A State may use funds apportioned to the State to carry out this section to make grants to private organizations, municipal, county, State, and Federal Government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee established under subsection (c)(2), for uses consistent with this section.

(B) COMPLIANCE.—A State that makes grants under subparagraph (A) shall establish measures to verify that recipients of the grants comply with the conditions of the program for the use of grant funds.

(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of recreational trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project and the Federal share of the administrative costs of a State under this section shall be determined in accordance with section 120(b).

(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

(A) the share attributable to the Secretary of Transportation may not exceed the amount determined in accordance with section 120(b) for the cost of a project under this section; and

(B) the share attributable to the Secretary and the Federal agency sponsoring the project may not exceed 95 percent of the cost of a project under this section.

(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the cost of the project may include amounts made available by the Federal Government under any Federal program that are—

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

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

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

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

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

(5) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project for a fiscal year under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for the fiscal year does not exceed the Federal share as determined in accordance with section 120(b).

(g) USES NOT PERMITTED.—A State may not obligate funds apportioned to carry out this section for—

(1) condemnation of any kind of interest in property;

(2) construction of any recreational trail on National Forest System land for any motorized use unless—

(A) the land has been designated for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

(A) has been designated for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

(B) the construction is otherwise consistent with the management direction in the approved management plan; or

(4) upgrading, expanding, or otherwise facilitating motorized use or access to recreational trails predominantly used by nonmotorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred.

(h) PROJECT ADMINISTRATION.—

(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—The Secretary may allow preapproval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described in subsection (d)(2) (other than subparagraph (H)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.

(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds apportioned to the State to carry out this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 200305(f)(3) of title 54.

(4) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of the apportionments to a State to carry out this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

(i) CONTRACT AUTHORITY.—Funds authorized to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

(j) USE OF OTHER APPORTIONED FUNDS.—Funds apportioned to a State under section 104(b) that are obligated for recreational trails and related projects shall be administered as if such funds were made available for purposes described under this section.

* * * * * * *

§ 208. Federal lands and Tribal major projects program

(a) ESTABLISHMENT.—The Secretary shall establish a Federal lands and Tribal major projects program (referred to in this section as the "program") to provide funding to construct, reconstruct, or rehabilitate critical Federal lands and Tribal transportation infrastructure.

(b) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), entities eligible to receive funds under sections 201, 202, 203, and 204 may apply for funding under the program.

(2) SPECIAL RULE.—A State, county, or unit of local government may only apply for funding under the program if spon-

sored by an eligible Federal land management agency or Indian Tribe.

(c) ELIGIBLE PROJECTS.—An eligible project under the program shall be on a Federal lands transportation facility, a Federal lands access transportation facility, or a tribal transportation facility, except that such facility is not required to be included in an inventory described in section 202 or 203, and for which—

(1) the project—

(A) has completed the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) which has been demonstrated through—

(i) a record of decision with respect to the project;

(ii) a finding that the project has no significant impact; or

(iii) a determination that the project is categorically excluded; or

(B) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project; and

(2) the project has an estimated cost equal to or exceeding—

(A) $12,500,000 if it is on a Federal lands transportation facility or a Federal lands access transportation facility; and

(B) $5,000,000 if it is on a Tribal transportation facility.

(d) ELIGIBLE ACTIVITIES.—Grant amounts received for a project under this section may be used for—

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

(2) construction, reconstruction, and rehabilitation activities.

(e) APPLICATIONS.—Eligible applicants shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

(f) PROJECT REQUIREMENTS.—The Secretary may select a project to receive funds under the program only if the Secretary determines that the project—

(1) improves the condition of critical transportation facilities, including multimodal facilities;

(2) cannot be easily and efficiently completed with amounts made available under section 202, 203, or 204; and

(3) is cost effective.

(g) MERIT CRITERIA.—In making a grant under this section, the Secretary shall consider whether the project—

(1) will generate state of good repair, resilience, economic competitiveness, quality of life, mobility, or safety benefits;

(2) in the case of a project on a Federal lands transportation facility or a Federal lands access transportation facility, has costs matched by funds that are not provided under this section or this title; and

(3) generates benefits for land owned by multiple Federal land management agencies or Indian Tribes, or which spans multiple States.

(h) EVALUATION AND RATING.—To evaluate applications, the Secretary shall—

(1) determine whether a project meets the requirements under subsection (f);

(2) evaluate, through a discernable and transparent methodology, how each application addresses one or more merit criteria established under subsection (g);

(3) assign a rating for each merit criteria for each application; and

(4) consider applications only on the basis of such quality ratings and which meet the minimally acceptable level for each of the merit criteria.

(i) COST SHARE.—

(1) FEDERAL LANDS PROJECTS.—

(A) IN GENERAL.—Notwithstanding section 120, the Federal share of the cost of a project on a Federal lands transportation facility or a Federal lands access transportation facility shall be up to 90 percent.

(B) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, any Federal funds may be used to pay the non-Federal share of the cost of a project carried out under this section.

(2) TRIBAL PROJECTS.—The Federal share of the cost of a project on a Tribal transportation facility shall be 100 percent.

(j) USE OF FUNDS.—For each fiscal year, of the amounts made available to carry out this section, not more than 50 percent shall be used for eligible projects on Federal lands transportation facilities or Federal lands access transportation facilities and Tribal transportation facilities, respectively.

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§ 211. Safe routes to school program

(a) PROGRAM.—The Secretary shall carry out a safe routes to school program for the benefit of children in primary, middle, and high schools.

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

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

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

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

(c) USE OF FUNDS.—Amounts apportioned to a State under paragraphs (2) and (3) of section 104(b) may be used to carry out projects, programs, and other activities under this section.

(d) ELIGIBLE ENTITIES.—Projects, programs, and activities funded under this section may be carried out by eligible entities described under section 133(h)(4)(B) that demonstrate an ability to meet the requirements of this section.

(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

(1) INFRASTRUCTURE-RELATED PROJECTS.—

(A) IN GENERAL.—A State may obligate funds under this section for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

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

(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—In addition to projects described in paragraph (1), a State may obligate funds under this section for noninfrastructure-related activities to encourage walking and bicycling to school, including—

(A) public awareness campaigns and outreach to press and community leaders;

(B) traffic education and enforcement in the vicinity of schools;

(C) student sessions on bicycle and pedestrian safety, health, and environment;

(D) programs that address personal safety; and

(E) funding for training, volunteers, and managers of safe routes to school programs.

(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under paragraphs (2) and (3) of section 104(b) shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.

(4) RURAL SCHOOL DISTRICT OUTREACH.—A coordinator described in paragraph (3) shall conduct outreach to ensure that rural school districts in the State are aware of such State's safe routes to school program and the funds authorized by this section.

(f) FEDERAL SHARE.—The Federal share of the cost of a project, program, or activity under this section shall be 100 percent.

(g) CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall maintain a national safe routes to school clearinghouse to—

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

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

(2) FUNDING.—The Secretary shall carry out this subsection using amounts authorized to be appropriated for administrative expenses under section 104(a).

(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects carried out under this section shall be treated as projects on a Federal-aid highway under chapter 1 of this title.

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

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

(2) PRIMARY, MIDDLE, AND HIGH SCHOOLS.—The term "primary, middle, and high schools" means schools providing education from kindergarten through twelfth grade.

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§ 217. Bicycle transportation and pedestrian walkways

(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(4) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

(b) USE OF NATIONAL HIGHWAY PERFORMANCE PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and [104(b)(3)] *104(b)(4)* of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation [a position] *at least one full-time positions* of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which [bicycles] *pedestrians or bicyclists* are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of [bicycles] *pedes-*

trians or bicyclists can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) PLANNING AND DESIGN.—

(1) IN GENERAL.—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) SAFETY CONSIDERATIONS.—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

(h) USE OF MOTORIZED VEHICLES.—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

(1) maintenance purposes;

(2) when snow conditions and State or local regulations permit, snowmobiles;

(3) motorized wheelchairs;

(4) when State or local regulations permit, electric bicycles; and

(5) such other circumstances as the Secretary deems appropriate.

(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

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

(1) BICYCLE TRANSPORTATION FACILITY.—The term "bicycle transportation facility" means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

[(2) ELECTRIC BICYCLE.—The term "electric bicycle" means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.**]**

(2) ELECTRIC BICYCLE.—The term "electric bicycle" means mean a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts that can safely share a bicycle transportation facility with other

users of such facility and meets the requirements of one of the following three classes:

(A) CLASS 1 ELECTRIC BICYCLE.—The term "class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(B) CLASS 2 ELECTRIC BICYCLE.—The term "class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(C) CLASS 3 ELECTRIC BICYCLE.—The term "class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

(3) PEDESTRIAN.—The term "pedestrian" means any person traveling by foot and any mobility-impaired person using a wheelchair.

(4) WHEELCHAIR.—The term "wheelchair" means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

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CHAPTER 3—GENERAL PROVISIONS

* * * * * * *

§ 313. Buy America

(a) [Notwithstanding] *IN GENERAL.—Notwithstanding* any other provision of law, the [Secretary of Transportation]*Secretary* shall not obligate any funds authorized to be appropriated to carry out [the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or] this title and administered by the Department of Transportation, unless steel, iron, [and manufactured products] *manufactured products, and construction materials* used in such project are produced in the United States.

(b) *DETERMINATION.*—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) [For purposes] *CALCULATION.—For purposes* of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(d) [The Secretary of Transportation] *REQUIREMENTS.—The Secretary* shall not impose any limitation or condition on assistance

provided under [the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or] this title that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

(e) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

(1) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.

(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.

(h) WAIVER PROCEDURE.—

(1) IN GENERAL.—Not later than 120 days after the submission of a request for a waiver, the Secretary shall make a determination under paragraph (1) or (2) of subsection (b) as to whether subsection (a) shall apply.

(2) PUBLIC NOTIFICATION AND COMMENT.—

(A) IN GENERAL.—Not later than 30 days before making a determination regarding a waiver described in paragraph (1), the Secretary shall provide notification and an

opportunity for public comment on the request for such waiver.

(B) NOTIFICATION REQUIREMENTS.—The notification required under subparagraph (A) shall—

(i) describe whether the application is being made for a determination described in subsection (b)(1); and

(ii) be provided to the public by electronic means, including on the public website of the Department of Transportation.

(3) DETERMINATION.—Before a determination described in paragraph (1) takes effect, the Secretary shall publish a detailed justification for such determination that addresses all public comments received under paragraph (2)—

(A) on the public website of the Department of Transportation; and

(B) if the Secretary issues a waiver with respect to such determination, in the Federal Register.

(i) REVIEW OF NATIONWIDE WAIVERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and at least every 5 years thereafter, the Secretary shall review any standing nationwide waiver issued by the Secretary under this section to ensure such waiver remains justified.

(2) PUBLIC NOTIFICATION AND OPPORTUNITY FOR COMMENT.—

(A) IN GENERAL.—Not later than 30 days before the completion of a review under paragraph (1), the Secretary shall provide notification and an opportunity for public comment on such review.

(B) MEANS OF NOTIFICATION.—Notification provided under this subparagraph shall be provided by electronic means, including on the public website of the Department of Transportation.

(3) DETAILED JUSTIFICATION IN FEDERAL REGISTER.—After the completion of a review under paragraph (1), the Secretary shall publish in the Federal Register a detailed justification for the determination made under paragraph (1) that addresses all public comments received under paragraph (2).

(j) REPORT.—Not later than 120 days after the last day of each fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Appropriations of the Senate a report on the waivers provided under subsection (h) during the previous fiscal year and the justifications for such waivers.

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§ 322. Magnetic levitation transportation technology deployment program

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

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) PARTNERSHIP POTENTIAL.—The term "partnership potential" has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than 2/3.

(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

(2) require an amount of Federal funds for project financing that will not exceed the sum of—

(A) the amounts made available under subsection (h)(1); and

(B) the amounts made available by States under subsection (h)(3);

(3) result in an operating transportation facility that provides a revenue producing service;

(4) be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-Federal funds;

(5) satisfy applicable statewide and metropolitan planning requirements;

(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

(3) States, regions, and localities financially contribute to the project;

(4) implementation of the project will create new jobs in traditional and emerging industries;

(5) the project will augment MAGLEV networks identified as having partnership potential;

(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

(7) financial assistance would foster the timely implementation of a project; and

(8) life-cycle costs in design and engineering are considered and enhanced.

(f) PROJECT SELECTION.—

(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

(h) FUNDING.—

(1) IN GENERAL.—

(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001.

(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

(II) the availability of the funds shall be determined in accordance with paragraph (2).

(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation ⟦block grant⟧ program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible

project selected under this section, without requirement for non-Federal funds.

(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.

(i) LOW-SPEED PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

(i) shall not be available in advance of an annual appropriation; and

(ii) shall remain available until expended.

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§ 326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under

this section, to forego project delivery methods that are otherwise permissible for highway projects.

(b) OTHER APPLICABLE FEDERAL LAWS.—

(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

(c) MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

(2) ASSISTANCE TO STATES.—On request of a Governor of a State, the Secretary shall provide to the State technical assistance, training, or other support relating to—

(A) assuming responsibility under subsection (a);

(B) developing a memorandum of understanding under this subsection; or

(C) addressing a responsibility in need of corrective action under subsection (d)(1)(B).

(3) TERM.—A memorandum of understanding—

[(A) shall have a term of not more than 3 years; and**]**

(A) except as provided under subparagraph (C), have a term of not more than 3 years;

(B) shall be renewable**[**.**]***; and*

(C) for any State that has assumed the responsibility for categorical exclusions under this section for at least 10 years, have a term of 5 years.

(4) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

(5) MONITORING.—The Secretary shall—

(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

(d) TERMINATION.—

(1) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) a notification of the determination of noncompliance;

(ii) a period of not less than 120 days to take such corrective action as the Secretary determines to be necessary to comply with the applicable agreement; and

(iii) on request of the Governor of the State, a detailed description of each responsibility in need of corrective action regarding an inadequacy identified under subparagraph (A); and

(C) the State, after the notification and period described in clauses (i) and (ii) of subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.

(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

(f) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorney's fees directly attributable to eligible activities associated with the project.

§ 327. Surface transportation project delivery program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery program (referred to in this section as the "program").

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project;

(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); but

(iv) the Secretary may not assign—

(I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or

(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).

(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.

(b) STATE PARTICIPATION.—

(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate, regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

(A) the regulatory requirements under paragraph (2) have been met;

(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

(2) be in such form as the Secretary may prescribe;

(3) provide that the State—

(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

(C) certifies that State laws (including regulations) are in effect that—

(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

(4) require the State to provide to the Secretary any information the Secretary reasonably considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

[(5) have a term of not more than 5 years; and**]**

(5) except as provided under paragraph (7), have a term of not more than 5 years;

(6) be renewable**[**.**]***; and*

(7) for any State that has participated in a program under this section (or under a predecessor program) for at least 10 years, have a term of 10 years.

(d) JURISDICTION.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of and without further approval of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State

participating in the program under this section, the Secretary shall—

(A) not later than 180 days after the date of execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

(B) conduct annual audits during each of the first 4 years of State participation; [and]

(C) in the case of an agreement period of greater than 5 years under subsection (c)(7), conduct an audit covering the first 5 years of the agreement period; and

[(C)] *(D)* ensure that the time period for completing an [annual] audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days.

(2) PUBLIC AVAILABILITY AND COMMENT.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

(3) AUDIT TEAM.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be carried out by an audit team determined by the Secretary, in consultation with the State, in accordance with subparagraph (B).

(B) CONSULTATION.—Consultation with the State under subparagraph (A) shall include a reasonable opportunity for the State to review and provide comments on the proposed members of the audit team.

(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

(j) TERMINATION.—

(1) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) a notification of the determination of noncompliance;

(ii) a period of not less than 120 days to take such corrective action as the Secretary determines to be necessary to comply with the applicable agreement; and

(iii) on request of the Governor of the State, a detailed description of each responsibility in need of cor-

rective action regarding an inadequacy identified under subparagraph (A); and

(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.

(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

(k) CAPACITY BUILDING.—The Secretary, in cooperation with representatives of State officials, may carry out education, training, peer-exchange, and other initiatives as appropriate—

(1) to assist States in developing the capacity to participate in the assignment program under this section; and

(2) to promote information sharing and collaboration among States that are participating in the assignment program under this section.

(l) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under this section may, as appropriate and at the request of a local government—

(1) exercise such authority on behalf of the local government for a locally administered project; or

(2) provide guidance and training on consolidating and minimizing the documentation and environmental analyses necessary for sponsors of a locally administered project to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any comparable requirements under State law.

(m) AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under an agreement under this section shall be deemed to be a Federal agency for the purposes of all Federal laws pursuant to which the responsibility is exercised.

* * * * * * *

CHAPTER 4—HIGHWAY SAFETY

* * * * * * *

§ 402. Highway safety programs

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic ⟦accidents⟧ *crashes* and the resulting deaths, injuries, and property damage.

(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

(A) include programs—

(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

(ii) to encourage the proper use of [occupant protection devices (including the use of safety belts and child restraint systems)] *seatbelts* by occupants of motor vehicles;

(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

(iv) to prevent [accidents] *crashes* and reduce injuries and deaths resulting from [accidents] *crashes* involving motor vehicles and motorcycles;

(v) to reduce injuries and deaths resulting from [accidents] *crashes* involving school buses;

(vi) to reduce [accidents] *crashes* resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

(vii) to improve law enforcement services in motor vehicle [accident] *crash* prevention, traffic supervision, and post-accident procedures[; and]*;*

(viii) to increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities;

(ix) to encourage more widespread and proper use of child safety seats (including booster seats) with an emphasis on underserved populations;

(x) to reduce injuries and deaths resulting from drivers of motor vehicles not moving to another traffic lane or reducing the speed of such driver's vehicle when law enforcement, fire service, emergency medical services, and other emergency vehicles are stopped or parked on or next to a roadway with emergency lights activated; and

(xi) to increase driver awareness of the dangers of pediatric vehicular hyperthermia;

(B) improve driver performance, including—

(i) driver education;

(ii) driver testing to determine proficiency to operate motor vehicles; and

(iii) driver examinations (physical, mental, and driver licensing);

(C) improve pedestrian performance and bicycle safety;

(D) include provisions for—

(i) an effective record system of [accidents] *crashes* (including resulting injuries and deaths);

(ii) [accident] *crash* investigations to determine the probable causes of [accidents] *crashes*, injuries, and deaths;

(iii) vehicle registration, operation, and inspection; and

(iv) emergency services; and

(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas

where a Federal department or agency controls the highways or supervises traffic operations.

(3) ADDITIONAL CONSIDERATIONS.—States which have legalized medicinal or recreational marijuana shall consider programs in addition to the programs described in paragraph (2)(A) to educate drivers on the risks associated with marijuana-impaired driving and to reduce injuries and deaths resulting from individuals driving motor vehicles while impaired by marijuana.

(b) ADMINISTRATION OF STATE PROGRAMS.—

(1) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B);

(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State;

(E) beginning on the first day of the first fiscal year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 for which a State submits its highway safety plan under subsection (k), provide for a data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;

(F) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—

(i) national law enforcement mobilizations and high-visibility law enforcement mobilizations coordinated by the Secretary;

(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative;

(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources; and

(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of ⟦accidents⟧ *crashes*, and deaths and injuries resulting therefrom.

(2) APPORTIONMENT.—Except for amounts identified in section 403(f), funds described in paragraph (1) shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than three-quarters of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior shall not be less than 2 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 per centum of the total apportionment. A highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting

or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State. A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 20 percent of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction.

(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State's apportionment to the State if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.

(4) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(A) PROHIBITION.—A State may not expend funds apportioned to that State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system.

(B) SPECIAL RULE FOR SCHOOL AND WORK ZONES.—Notwithstanding subparagraph (A), a State may expend funds apportioned to that State under this section to carry out a program to purchase, operate, or maintain an automated traffic system in a work zone or school zone.

(C) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM GUIDELINES.—Any automated traffic enforcement system installed pursuant to subparagraph (B) shall comply with speed enforcement camera systems and red light camera systems guidelines established by the Secretary.

[(B)**]** *(D)* AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this paragraph, the term "automated traffic enforcement system" means any camera which captures an image of a vehicle for the purposes only of red light and

speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

[(C) SURVEY.—A State in which an automated traffic enforcement system is installed shall expend funds apportioned to that State under this section to conduct a biennial survey that the Secretary shall make publicly available through the Internet Web site of the Department of Transportation that includes—

[(i) a list of automated traffic enforcement systems in the State;

[(ii) adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and

[(iii) a comparison of each automated traffic enforcement system with—

[(I) Speed Enforcement Camera Systems Operational Guidelines (DOT HS 810 916, March 2008); and

[(II) Red Light Camera Systems Operational Guidelines (FHWA–SA–05–002, January 2005).]

(d) All provisions of chapter 1 of this title that are applicable to National Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State transportation department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by

subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

(g) RESTRICTION.—Nothing in this section may be construed to authorize the appropriation or expenditure of funds for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines).

(h) APPLICATION IN INDIAN COUNTRY.—

(1) USE OF TERMS.—For the purpose of application of this section in Indian country, the terms "State" and "Governor of a State" include the Secretary of the Interior and the term "political subdivision of a State" includes an Indian tribe.

(2) EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.—Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

(3) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

(4) INDIAN COUNTRY DEFINED.—In this subsection, the term "Indian country" means—

(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(i) RULEMAKING PROCEEDING.—The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.

(j) LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require each

State, as a condition of the approval of the State's highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan that complies with the requirements under this subsection.

(2) TIMING.—Each State shall submit to the Secretary the highway safety plan not later than July 1st of the fiscal year preceding the fiscal year to which the plan applies.

(3) ELECTRONIC SUBMISSION.—The Secretary, in coordination with the Governors Highway Safety Association, shall develop procedures to allow States to submit highway safety plans under this subsection, including any attachments to the plans, in electronic form.

(4) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

(i) documentation of current safety levels for each performance measure;

(ii) quantifiable annual performance targets for each performance measure; and

(iii) a justification for each performance target, that explains why each target is appropriate and evidence-based;

(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

(C) data and data analysis supporting the effectiveness of proposed countermeasures;

(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

(E) for the fiscal year preceding the fiscal year to which the plan applies, a report on the State's success in meeting State safety goals and performance targets set forth in the previous year's highway safety plan; and

(F) an application for any additional grants available to the State under this chapter.

(5) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (3)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, "Traffic Safety Performance Measures for States and Federal Agencies" (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall coordinate with the Governor's Highway Safety Association in making revisions to the set of required performance measures.

(6) REVIEW OF HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Not later than 45 days after the date on which a State's highway safety plan is received by

the Secretary, the Secretary shall review and approve or disapprove the plan.

(B) APPROVALS AND DISAPPROVALS.—

(i) APPROVALS.—The Secretary shall approve a State's highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are evidence-based and supported by data; and

(II) the plan, once implemented, will allow the State to meet the State's performance targets.

(ii) DISAPPROVALS.—The Secretary shall disapprove a State's highway safety plan if the Secretary determines that—

(I) the plan and the performance targets contained in the plan are not evidence-based or supported by data; or

(II) the plan does not provide for programming of funding in a manner sufficient to allow the State to meet the State's performance targets.

(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

(i) inform the State of the reasons for such disapproval; and

(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

(E) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.

(l) TRAFFIC SAFETY ENFORCEMENT GRANTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States for the purpose of carrying out top-rated traffic safety enforcement countermeasures to reduce traffic-related injuries and fatalities.

(2) EFFECTIVE COUNTERMEASURE DEFINED.—In this subsection, the term "effective countermeasure" means a countermeasure rated 3, 4, or 5 stars in the most recent edition of the National Highway Traffic Safety Administration's Countermeasures That Work highway safety guide.

(3) FUNDING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), the Secretary shall set aside $35,000,000 of the funds made available under this section for each fiscal year to be allocated among up to 10 States.

(4) SELECTION CRITERIA.—The Secretary shall select up to 10 applicants based on the following criteria:

(A) A preference for applicants who are geographically diverse.

(B) A preference for applicants with a higher average number of traffic fatalities per vehicle mile traveled.

(C) A preference for applicants whose activities under subparagraphs (A) and (B) of paragraph (6) are expected to have the greatest impact on reducing traffic-related fatalities and injuries, as determined by the Secretary.

(5) ELIGIBILITY.—A State may receive a grant under this subsection in a fiscal year if the State demonstrates, to the satisfaction of the Secretary, that the State is able to meet the requirements in paragraph (6).

(6) REQUIREMENTS.—In order to receive funds, a State must establish an agreement with the Secretary to—

(A) identify areas with the highest risk of traffic fatalities and injuries;

(B) determine the most effective countermeasures to implement in those areas, with priority given to countermeasures rated above 3 stars; and

(C) report annual data under uniform reporting requirements established by the Secretary, including—

(i) traffic citations, arrests, and other interventions made by law enforcement, including such interventions that did not result in arrest or citation;

(ii) the increase in traffic safety enforcement activity supported by these funds; and

(iii) any other metrics the Secretary determines appropriate to determine the success of the grant.

(7) USE OF FUNDS.—

(A) IN GENERAL.—Grant funds received by a State under this subsection may be used for—

(i) implementing effective countermeasures determined under paragraph (6); and

(ii) law enforcement-related expenses, such as officer training, overtime, technology, and equipment, if the Secretary determines effective countermeasures have been implemented successfully and the Secretary provides approval.

(B) BROADCAST AND PRINT MEDIA.—Up to 5 percent of grant funds received by a State under this subsection may be used for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement efforts under this subsection.

(8) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under subsection (c)(2) for the fiscal year.

(9) MAINTENANCE OF EFFORT.—No grant may be made to a State in any fiscal year under this subsection unless the State enters into such an agreement with the Secretary, as the Secretary may require, to ensure that the State will maintain its aggregate expenditures from all State and local sources for ac-

tivities carried out in accordance with this subsection at or above the average level of expenditures in the 2 fiscal years preceding the date of enactment of this subsection.

(10) ANNUAL EVALUATION AND REPORT TO CONGRESS.—The Secretary shall conduct an annual evaluation of the effectiveness of grants awarded under this subsection and shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report on the effectiveness of the grants.

(m) TEEN TRAFFIC SAFETY.—

(1) IN GENERAL.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement statewide efforts to improve traffic safety for teen drivers.

(2) USE OF FUNDS.—Statewide efforts under paragraph (1)—

(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

(i) increase safety belt use;

(ii) reduce speeding;

(iii) reduce impaired and distracted driving;

(iv) reduce underage drinking; and

(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

(B) may include—

(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

(v) conducting outreach and providing educational resources for parents;

(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

(vii) collaborating with law enforcement;

(viii) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities;

(ix) increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities; and

(x) support for school-based driver's education classes to improve teen knowledge about—

(I) safe driving practices; and

(II) State graduated driving license requirements, including behind-the-wheel training required to meet those requirements.

(n) [PUBLIC TRANSPARENCY.—] [The Secretary] *PUBLIC TRANSPARENCY.—*

(1) IN GENERAL.—The Secretary shall publicly release on its website information that contains each State's performance with respect to the State's highway safety plan under subsection (k) and performance targets set by the States in such plans. Such information shall be posted on the website within 45 calendar days of approval of a State's highway safety plan.

(2) STATE HIGHWAY SAFETY PLAN WEBSITE.—

(A) IN GENERAL.—In carrying out the requirements of paragraph (1), the Secretary shall establish a public website that is easily accessible, navigable, and searchable for the information required under paragraph (1), in order to foster greater transparency in approved State highway safety programs.

(B) CONTENTS.—The website established under subparagraph (A) shall—

(i) include each State highway safety plan and annual report submitted and approved by the Secretary under subsection (k);

(ii) provide a means for the public to search such website for State highway safety program content required in subsection (k), including—

(I) performance measures required by the Secretary under paragraph (3)(A);

(II) progress made toward meeting the State's performance targets for the previous year;

(III) program areas and expenditures; and

(IV) a description of any sources of funds other than funds provided under this section that the State proposes to use to carry out the State highway safety plan of such State.

§ 403. Highway safety research and development

(a) DEFINED TERM.—In this section, the term "Federal laboratory" includes—

(1) a government-owned, government-operated laboratory; and

(2) a government-owned, contractor-operated laboratory.

(b) GENERAL AUTHORITY.—

(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects*, training,* and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

(A) all aspects of highway and traffic safety systems and conditions relating to—

(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

(ii) [accident] *crash* causation and investigations;

(iii) communications; and

(iv) emergency medical services, including the transportation of the injured;

(B) human behavioral factors and their effect on highway and traffic safety, including—

(i) driver education;

(ii) impaired driving; and

(iii) distracted driving;

(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

(D) the development of technologies to detect drug impaired drivers;

(E) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems; and

(F) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (E).

(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign government (in coordination with the Department of State) or person (as defined in chapter 1 of title 1); or

(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, colleges, universities, corporations, partnerships, sole proprietorships, organizations, and trade associations that are incorporated or established under the laws of any State or the United States; and

(B) Federal laboratories.

(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

(e) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic [accident] *crash* or the investigation of such [accident] *crash* conducted pursuant to this chapter or chapter 301 of title 49 may only be made available to the public in a manner that does not identify individuals.

(f) COOPERATIVE RESEARCH AND EVALUATION.—

(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), [$2,500,000] *$3,500,000* of the total amount available for apportionment to the States for highway safety programs under [subsection 402(c) in each fiscal year ending before October 1, 2015, and $443,989 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on December 4, 2015,] *section 402(c)(2) in each fiscal year* shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

(2) ADMINISTRATION.—The program established under paragraph (1)—

(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.

(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

[(h) IN-VEHICLE ALCOHOL DETECTION DEVICE RESEARCH.—

[(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a col-

laborative research effort under chapter 301 of title 49 on in-vehicle technology to prevent alcohol-impaired driving.

[(2) FUNDING.—The Secretary shall obligate from funds made available to carry out this section for the period covering fiscal years 2017 through 2020 not more than $21,248,000 to conduct the research described in paragraph (1).

[(3) PRIVACY PROTECTION.—The Administrator shall not develop requirements for any device or means of technology to be installed in an automobile intended for retail sale that records a driver's blood alcohol concentration.

[(4) REPORTS.—The Administrator shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and Committee on Science, Space, and Technology of the House of Representatives that—

[(A) describes the progress made in carrying out the collaborative research effort; and

[(B) includes an accounting for the use of Federal funds obligated or expended in carrying out that effort.

[(5) DEFINITIONS.—In this subsection:

[(A) ALCOHOL-IMPAIRED DRIVING.—The term "alcohol-impaired driving" means the operation of a motor vehicle (as defined in section 30102(a)(6) of title 49) by an individual whose blood alcohol content is at or above the legal limit.

[(B) LEGAL LIMIT.—The term "legal limit" means a blood alcohol concentration of 0.08 percent or greater (as set forth in section 163(a)) or such other percentage limitation as may be established by applicable Federal, State, or local law.]

[(i)] *(h)* LIMITATION ON DRUG AND ALCOHOL SURVEY DATA.—The Secretary shall establish procedures and guidelines to ensure that any person participating in a program or activity that collects data on drug or alcohol use by drivers of motor vehicles and is carried out under this section is informed that the program or activity is voluntary.

[(j)] *(i)* FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out under this section may be not more than 100 percent.

(j) GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.—

(1) GENERAL AUTHORITY.—Subject to the requirements of this subsection, the Secretary shall make grants to a State that—

(A) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver; or

(B) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of subparagraph (A).

(2) USE OF GRANT FUNDS.—A grant received by a State under paragraph (1) shall be used by the State for the costs of—

(A) collecting and maintaining data on traffic stops; and

(B) evaluating the results of such data.

(3) LIMITATIONS.—

(A) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants made to a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

(B) ELIGIBILITY.—On or after October 1, 2022, a State may not receive a grant under paragraph (1)(B) in more than 2 fiscal years.

(4) FUNDING.—

(A) IN GENERAL.—From funds made available under this section, the Secretary shall set aside $7,500,000 for each fiscal year to carry out this subsection.

(B) OTHER USES.—The Secretary may reallocate, before the last day of any fiscal year, amounts remaining available under subparagraph (A) to increase the amounts made available to carry out any other activities authorized under this section in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

§ 404. High-visibility enforcement program

(a) IN GENERAL.—The Secretary shall establish and administer a program under which not less than [3 campaigns will be carried out in each of fiscal years 2016 through 2020] *6 campaigns will be carried out in each of fiscal years 2022 through 2025*.

(b) PURPOSE.—The purpose of each campaign carried out under this section shall be to achieve outcomes related to not less than 1 of the following objectives:

(1) Reduce alcohol-impaired [or drug-impaired] operation of motor vehicles.

(2) Reduce drug-impaired operation of motor vehicles.

[(2)] *(3)* [Increase use of seatbelts] *Increase proper use of seatbelts and child restraints* by occupants of motor vehicles.

(4) Reduce texting through a personal wireless communications device by drivers while operating a motor vehicle.

(5) Reduce violations of move over laws of a State that require motorists to change lanes or slow down when law enforcement, fire service, emergency medical services and other emergency vehicles are stopped or parked on or next to a roadway with emergency lights activated.

(c) ADVERTISING.—The Secretary may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising and Internet-based outreach in carrying out campaigns under this section. In allocating such funds, consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

(d) COORDINATION WITH STATES.—The Secretary shall coordinate with States in carrying out the campaigns under this section,

including advertising funded under subsection (c), with consideration given to—

(1) relying on States to provide law enforcement resources for the campaigns out of funding made available under sections 402 and 405; and

(2) providing, out of National Highway Traffic Safety Administration resources, most of the means necessary for national advertising and education efforts associated with the campaigns.

(e) FREQUENCY.—Each campaign administered under this section shall occur not less than once in each of fiscal years 2022 through 2025 with the exception of campaigns to reduce alcohol-impaired operation of motor vehicles which shall occur not less than twice in each of fiscal years 2022 through 2025.

(f) COORDINATION OF DYNAMIC HIGHWAY MESSAGE SIGNS.—During the time a State is carrying out a campaign, the Secretary shall coordinate with States carrying out the campaigns under this section on the use of dynamic highway message signs to support national high-visibility advertising and education efforts associated with the campaigns.

[(e)**]** *(g)* USE OF FUNDS.—Funds made available to carry out this section may be used only for activities described in subsection (c).

(4) TEXTING.—The term "texting" has the meaning given such term in section 405(e).

[(f)**]** *(h)* DEFINITIONS.—In this section, the following definitions apply:

(1) CAMPAIGN.—The term "campaign" means a high-visibility traffic safety law enforcement campaign.

(2) STATE.—The term "State" has the meaning given that term in section 401.

§ 405. National priority safety programs

(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the following:

(1) OCCUPANT PROTECTION.—In each fiscal year, **[**13 percent**]** *12.85 percent* of the funds provided under this section shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

(2) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—In each fiscal year, **[**14.5 percent**]** *14.3 percent* of the funds provided under this section shall be allocated among States that meet requirements with respect to State traffic safety information system improvements (as described in subsection (c)).

(3) IMPAIRED DRIVING COUNTERMEASURES.—In each fiscal year, **[**52.5 percent**]** *51.75 percent* of the funds provided under this section shall be allocated among States that meet require-

ments with respect to impaired driving countermeasures (as described in subsection (d)).

(4) DISTRACTED DRIVING.—In each fiscal year, [8.5 percent] *8.3 percent* of the funds provided under this section shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

(5) MOTORCYCLIST SAFETY.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

(6) STATE GRADUATED DRIVER LICENSING LAWS.—In each fiscal year, [5 percent] *4.9 percent* of the funds provided under this section shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g)).

(7) NONMOTORIZED SAFETY.—In each fiscal year, [5 percent] *4.9 percent* of the funds provided under this section shall be allocated among States that meet requirements with respect to nonmotorized safety (as described in subsection (h)).

(8) DRIVER AND OFFICER SAFETY EDUCATION.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that meet the requirements with respect to driver and officer safety education (as described in subsection (i)).

[(8)] *(9)* TRANSFERS.—Notwithstanding [paragraphs (1) through (7)] *paragraphs (1) through (8)*, the Secretary shall reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (h) to increase the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

[(9)] *(10)* MAINTENANCE OF EFFORT.—

(A) CERTIFICATION.—As part of the grant application required in section 402(k)(3)(F), a State receiving a grant in any fiscal year under subsection (b), (c), or (d) of this section shall provide certification that the lead State agency responsible for programs described in any of those subsections is maintaining aggregate expenditures at or above the average level of such expenditures in the 2 fiscal years prior to the [date of enactment of the FAST Act] *date of enactment of the INVEST in America Act*.

(B) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under subparagraph (A) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(10) POLITICAL SUBDIVISIONS.—A State may provide the funds awarded under this section to a political subdivision of the State or an Indian tribal government.

(b) OCCUPANT PROTECTION GRANTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this subsection may not exceed 80 percent for each fiscal year for which a State receives a grant.

(3) ELIGIBILITY.—

(A) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

(i) submits an occupant protection plan during the first fiscal year;

(ii) participates in the Click It or Ticket national mobilization;

(iii) has an active network of child restraint inspection stations; and

(iv) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

(B) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

(i) the State meets all of the requirements under clauses (i) through (iv) of subparagraph (A); and

(ii) the Secretary determines that the State meets at least 3 of the following criteria:

(I) The State conducts sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.

(II) The State has enacted and enforces a primary enforcement seat belt use law.

(III) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

(IV) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

(V) The State has implemented a comprehensive occupant protection program in which the State has—

(aa) conducted a program assessment;

(bb) developed a statewide strategic plan;

(cc) designated an occupant protection coordinator; and

(dd) established a statewide occupant protection task force.

(VI) The State—

(aa) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

(bb) will conduct such an assessment during the first year of the grant.

(4) USE OF GRANT AMOUNTS.—

(A) IN GENERAL.—Grant funds received pursuant to this subsection may be used to—

(i) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

(ii) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

(iii) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

(iv) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

[(v) purchase and distribute child restraints to low-income families, provided that not more than 5 percent of the funds received in a fiscal year are used for such purpose; and**]**

(v) implement programs in low-income and underserved populations to—

(I) recruit and train occupant protection safety professionals, nationally certified child passenger safety technicians, police officers, fire and emergency medical personnel, and educators serving low-income and underserved populations;

(II) educate parents and caregivers in low-income and underserved populations about the proper use and installation of child safety seats; and

(III) purchase and distribute child safety seats to low-income and underserved populations; and

(vi) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys.

(B) HIGH SEAT BELT USE RATE.—A State that is eligible for funds under paragraph (3)(A) may use up to **[**100 per-

cent] *90 percent* of such funds for any project or activity eligible for funding under section 402. *The remaining 10 percent of such funds shall be used to carry out subsection (A)(v).*

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) DEFINITIONS.—In this subsection:

(A) CHILD RESTRAINT.—The term "child restraint" means any device (including child safety seat, booster seat, harness, and excepting seat belts) that is—

(i) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less; and

(ii) certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

(B) SEAT BELT.—The term "seat belt" means—

(i) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(ii) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

(c) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

(B) evaluate the effectiveness of efforts to make such improvements;

(C) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

(E) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(2) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State is not eligible for a grant under this subsection in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

(A) has a functioning traffic records coordinating committee (referred to in this paragraph as "TRCC") that meets at least 3 times each year;

(B) has designated a TRCC coordinator;

(C) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

(D) has demonstrated quantitative progress in relation to the significant data program attribute of—

(i) accuracy;

(ii) completeness;

(iii) timeliness;

(iv) uniformity;

(v) accessibility; or

(vi) integration of a core highway safety database; and

(E) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding **[**5**]** *10* years.

[(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in paragraph (3)(D).**]**

(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection shall be used for—

(A) making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in paragraph (3)(D);

(B) developing or acquiring programs to identify, collect, and report data to State and local government agencies, and enter data, including crash, citation and adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle, into the core highway safety databases of a State;

(C) purchasing equipment to improve processes by which data is identified, collected, and reported to State and local government agencies;

(D) linking core highway safety databases of a State with such databases of other States or with other data systems within the State, including systems that contain medical, roadway, and economic data;

(E) improving the compatibility and interoperability of the core highway safety databases of the State with national data systems and data systems of other States;

(F) enhancing the ability of a State and the Secretary to observe and analyze local, State, and national trends in crash occurrences, rates, outcomes, and circumstances;

(G) supporting traffic records-related training and related expenditures for law enforcement, emergency medical, judicial, prosecutorial, and traffic records professionals;

(H) hiring traffic records professionals, including a Fatality Analysis Reporting System liaison for a State; and

(I) conducting research on State traffic safety information systems, including developing and evaluating programs to improve core highway safety databases of such State and processes by which data is identified, collected, reported to State and local government agencies, and entered into such core safety databases.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(d) IMPAIRED DRIVING COUNTERMEASURES.—

(1) IN GENERAL.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement—

(A) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

(B) alcohol-ignition interlock laws.

(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this subsection may not exceed 80 percent in any fiscal year in which the State receives a grant.

(3) ELIGIBILITY.—

(A) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this subsection.

(B) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this subsection if—

(i) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

(ii) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

(C) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this subsection if the State—

(i)(I) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

(II) will conduct such an assessment during the first year of the grant;

(ii) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

(I) addresses any recommendations from the assessment conducted under clause (i);

(II) includes a detailed plan for spending any grant funds provided under this subsection; and

(III) describes how such spending supports the statewide program; and

(iii)(I) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

(II) annually updates the statewide plan in each subsequent year of the grant; and

(III) submits each updated statewide plan for the agency's review and comment.

(4) USE OF GRANT AMOUNTS.—

(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

(i) high-visibility enforcement efforts; and

(ii) any of the activities described in subparagraph (B) if—

(I) the activity is described in the statewide plan; and

(II) the Secretary approves the use of funding for such activity.

(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

(i) any of the purposes described in subparagraph (A);

(ii) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol, drugs, or the combination of alcohol and drugs;

(iii) court support of high-visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

(iv) alcohol ignition interlock programs;

(v) improving blood-alcohol concentration testing and reporting;

(vi) paid and earned media in support of high-visibility enforcement efforts, conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

(vii) training on the use of alcohol and drug screening and brief intervention;

(viii) training for and implementation of impaired driving assessment programs or other tools designed

to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

(ix) developing impaired driving information systems; and

(x) costs associated with a 24-7 sobriety program.

(C) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification and may use not more than 50 percent of funds made available under this subsection for any project or activity eligible for funding under section 402. Medium-range and high-range States may use funds for any expenditure designed to reduce impaired driving based on problem identification upon approval by the Secretary.

(5) GRANT AMOUNT.—Subject to paragraph (6), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(6) ADDITIONAL GRANTS.—

[(A) GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.]

(A) GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—The Secretary shall make a separate grant under this subsection to each State that—

(i) adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals arrested or convicted of driving under the influence of alcohol or of driving while intoxicated;

(ii) does not allow any individual arrested or convicted of driving under the influence of alcohol or driving while intoxicated to drive a motor vehicle unless such individual installs an ignition interlock for a minimum 6-month interlock period; or

(iii) has—

(I) enacted and is enforcing a state law requiring all individuals convicted of, or whose driving privilege is revoked or denied for, refusing to submit to a chemical or other test for the purpose of determining the presence or concentration of any intoxicating substance to install an ignition interlock for a minimum 6-month interlock period; and

(II) a compliance-based removal program in which an individual arrested or convicted of driving under the influence of alcohol or driving while intoxicated shall install an ignition interlock for a

minimum 6-month interlock period and have completed a minimum consecutive period of not less than 40 percent of the required interlock period immediately preceding the date of release, without a confirmed violation of driving under the influence of alcohol or driving while intoxicated.

(B) GRANTS TO STATES WITH 24-7 SOBRIETY PROGRAMS.—The Secretary shall make a separate grant under this subsection to each State that—

(i) adopts and is enforcing a law that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges; and

(ii) provides a 24-7 sobriety program.

(C) USE OF FUNDS.—Grants authorized under subparagraph (A) and subparagraph (B) may be used by recipient States for any eligible activities under this subsection or section 402.

(D) ALLOCATION.—Amounts made available under this paragraph shall be allocated among States described in subparagraph (A) and subparagraph (B) in proportion to the State's apportionment under section 402 for fiscal year 2009.

(E) FUNDING.—

(i) FUNDING FOR GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—Not more than 12 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under subparagraph (A).

(ii) FUNDING FOR GRANTS TO STATES WITH 24-7 SOBRIETY PROGRAMS.—Not more than 3 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under subparagraph (B).

(F) EXCEPTIONS.—A State alcohol-ignition interlock law under subparagraph (A) may include exceptions for the following circumstances:

(i) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual.

(ii) The individual is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device.

(iii) A State-certified ignition interlock provider is not available within 100 miles of the individual's residence.

(7) DEFINITIONS.—In this subsection:

(A) 24-7 SOBRIETY PROGRAM.—The term "24-7 sobriety program" means a State law or program that authorizes a State court or an agency with jurisdiction, as a condition of bond, sentence, probation, parole, or work permit, to—

(i) require an individual who was arrested for, plead guilty to, or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

(ii) require the individual to be subject to testing for alcohol or drugs—

(I) at least twice per day at a testing location;

(II) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

(III) by an alternate method with the concurrence of the Secretary.

(B) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term "average impaired driving fatality rate" means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

(C) HIGH-RANGE STATE.—The term "high-range State" means a State that has an average impaired driving fatality rate of 0.60 or higher.

(D) LOW-RANGE STATE.—The term "low-range State" means a State that has an average impaired driving fatality rate of 0.30 or lower.

(E) MID-RANGE STATE.—The term "mid-range State" means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

(e) DISTRACTED DRIVING GRANTS.—

(1) IN GENERAL.—The Secretary shall award a grant under this subsection to any State that includes distracted driving awareness as part of the State's driver's license examination, and enacts and enforces a law that meets the requirements set forth in ⟦paragraphs (2) and (3)⟧ *paragraph (2)*.

⟦(2) PROHIBITION ON TEXTING WHILE DRIVING.—A State law meets the requirements set forth in this paragraph if the law—

⟦(A) prohibits a driver from texting through a personal wireless communications device while driving;

⟦(B) makes violation of the law a primary offense;

⟦(C) establishes a minimum fine for a violation of the law; and

⟦(D) does not provide for an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic.

⟦(3) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

⟦(A) prohibits a driver from using a personal wireless communications device while driving if the driver is—

⟦(i) younger than 18 years of age; or

[(ii) in the learner's permit or intermediate license stage set forth in subsection (g)(2)(B);

[(B) makes violation of the law a primary offense;

[(C) establishes a minimum fine for a violation of the law; and

[(D) does not provide for an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic.]

(2) ALLOCATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(B) PRIMARY OFFENSE LAWS.—A State that has enacted and is enforcing a law that meets the requirements set forth in paragraphs (3) and (4) as a primary offense shall be allocated 100 percent of the amount calculated under subparagraph (A).

(C) SECONDARY OFFENSE LAWS.—A State that has enacted and is enforcing a law that meets the requirements set forth in paragraphs (3) and (4) as a secondary offense shall be allocated 50 percent of the amount calculated under subparagraph (A).

(3) PROHIBITION ON HANDHELD PERSONAL WIRELESS COMMUNICATION DEVICE USE WHILE DRIVING.—A State law meets the requirements set forth in this paragraph if the law—

(A) prohibits a driver from holding or using, including texting, a personal wireless communications device while driving, except for the use of a personal wireless communications device—

(i) in a hands-free manner or with a hands-free accessory, or

(ii) to activate or deactivate a feature or function of the personal wireless communications device;

(B) establishes a fine for a violation of the law; and

(C) does not provide for an exemption that specifically allows a driver to hold or use a personal wireless communication device while stopped in traffic.

(4) PROHIBITION ON PERSONAL WIRELESS COMMUNICATION DEVICE USE WHILE DRIVING OR STOPPED IN TRAFFIC.—A State law meets the requirements set forth in this paragraph if the law—

(A) prohibits a driver from holding or using a personal wireless communications device while driving if the driver is—

(i) younger than 18 years of age; or

(ii) in the learner's permit or intermediate license stage described in subparagraph (A) or (B) of subsection (g)(2);

(B) establishes a fine for a violation of the law; and

(C) does not provide for an exemption that specifically allows a driver to use a personal wireless communication device while stopped in traffic.

[(4)] *(5)* PERMITTED EXCEPTIONS.—A law that meets the requirements set forth in [paragraph (2) or (3)] *paragraph (3) or (4)* may provide exceptions for—

(A) a driver who uses a personal wireless [communications device to contact emergency services] *communications device during an emergency to contact emergency services or to prevent injury to persons or property*;

(B) emergency services personnel who use a personal wireless communications device while—

(i) operating an emergency services vehicle; and

(ii) engaged in the performance of their duties as emergency services personnel;

(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31136 of title 49[; and];

(D) a driver who uses a personal wireless communication device for navigation; and

[(D)] *(E)* any additional exceptions determined by the Secretary through a rulemaking process.

[(5)] *(6)* USE OF GRANT FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), amounts received by a State under this subsection shall be used—

(i) to educate the public through advertising containing information about the dangers of [texting or using a cell phone while] *distracted* driving;

(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

(iii) for law enforcement costs related to the enforcement of the distracted driving law.

(B) FLEXIBILITY.—

(i) Not more than 50 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402.

(ii) Not more than 75 percent of amounts received by a State under this subsection may be used for any eligible project or activity under section 402 if the State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria published by the Secretary.

[(6) ADDITIONAL DISTRACTED DRIVING GRANTS.—

[(A) IN GENERAL.—Notwithstanding paragraph (1), for each of fiscal years 2017 and 2018, the Secretary shall use up to 25 percent of the amounts available for grants under this subsection to award grants to any State that—

[(i) in fiscal year 2017—

[(I) certifies that it has enacted a basic text messaging statute that—

[(aa) is applicable to drivers of all ages; and

[(bb) makes violation of the basic text messaging statute a primary offense or secondary enforcement action as allowed by State statute; and

[(II) is otherwise ineligible for a grant under this subsection; and

[(ii) in fiscal year 2018—

[(I) certifies that it has enacted a basic text messaging statute that—

[(aa) is applicable to drivers of all ages; and

[(bb) makes violation of the basic text messaging statute a primary offense;

[(II) imposes fines for violations;

[(III) has a statute that prohibits drivers who are younger than 18 years of age from using a personal wireless communications device while driving; and

[(IV) is otherwise ineligible for a grant under this subsection.

[(B) USE OF GRANT FUNDS.—

[(i) IN GENERAL.—Notwithstanding paragraph (5) and subject to clauses (ii) and (iii) of this subparagraph, amounts received by a State under subparagraph (A) may be used for activities related to the enforcement of distracted driving laws, including for public information and awareness purposes.

[(ii) FISCAL YEAR 2017.—In fiscal year 2017, up to 15 percent of the amounts received by a State under subparagraph (A) may be used for any eligible project or activity under section 402.

[(iii) FISCAL YEAR 2018.—In fiscal year 2018, up to 25 percent of the amounts received by a State under subparagraph (A) may be used for any eligible project or activity under section 402.]

(7) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—[Of the amounts] *In addition to the amounts authorized under section 404 and of the amounts* available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend not more than $5,000,000 for the development and placement of broadcast media to reduce distracted driving of motor vehicles.

[(8) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.]

(8) RULEMAKING.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall issue such regulations as are necessary to account for diverse State approaches to combating distracted driving that—

(A) defines the terms personal wireless communications device and texting for the purposes of this subsection; and

(B) determines additional permitted exceptions that are appropriate for a State law that meets the requirements under paragraph (3) or (4).

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

(A) DRIVING.—The term "driving"—

(i) means operating a motor vehicle on a public road; and

(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

[(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term "personal wireless communications device"—

[(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

[(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.**]**

(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term "personal wireless communications device" means—

(i) until the date on which the Secretary issues a regulation pursuant to paragraph (8)(A), a device through which personal services (as such term is defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i)) are transmitted, but not including the use of such a device as a global navigation system receiver used for positioning, emergency notification, or navigation purposes; and

(ii) on and after the date on which the Secretary issues a regulation pursuant to paragraph (8)(A), the definition described in such regulation.

(C) PRIMARY OFFENSE.—The term "primary offense" means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

(D) PUBLIC ROAD.—The term "public road" has the meaning given such term in section 402(c).

[(E) TEXTING.—The term "texting" means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.**]**

(E) TEXTING.—The term "texting" means—

(i) until the date on which the Secretary issues a regulation pursuant to paragraph (8)(A), reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or

engaging in any other form of electronic data retrieval or electronic data communication; and

(ii) on and after the date on which the Secretary issues a regulation pursuant to paragraph (8)(A), the definition described in such regulation.

(f) MOTORCYCLIST SAFETY.—

(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

(2) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009, except that the amount of a grant awarded to a State for a fiscal year may not exceed 25 percent of the amount apportioned to the State under such section for fiscal year 2009.

(3) GRANT ELIGIBILITY.—A State becomes eligible for a grant under this subsection by adopting or demonstrating to the satisfaction of the Secretary, at least 2 of the following criteria:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, which—

(i) provides a formal program of instruction in ⟦accident⟧ *crash* avoidance and other safety-oriented operational skills to motorcyclists; and

(ii) may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(E) REDUCTION OF FATALITIES AND ⟦ACCIDENTS⟧ *CRASHES* INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety purposes.

(4) ELIGIBLE USES.—

(A) IN GENERAL.—A State may use funds from a grant under this subsection only for motorcyclist safety training and motorcyclist awareness programs, including—

(i) improvements to motorcyclist safety training curricula;

(ii) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(I) procurement or repair of practice motorcycles;

(II) instructional materials;

(III) mobile training units; and

(IV) leasing or purchasing facilities for closed-course motorcycle skill training;

(iii) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(iv) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, including "share-the-road" safety messages.

(B) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this subsection may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out this subsection.

(C) FLEXIBILITY.—Not more than 50 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations based on the most recent data that conforms with criteria established by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—

(i) the presence of motorcycles on or near roadways; and

(ii) safe driving practices that avoid injury to motorcyclists.

(B) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

(C) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcy-

clist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

(D) STATE.—The term "State" has the meaning given such term in section 101(a) of title 23, United States Code.

(6) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall update and provide to the States model language, for use in traffic safety education courses, driver's manuals, and other driver training materials, that provides instruction for drivers of motor vehicles on the importance of sharing the road safely with motorcyclists.

(g) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—

(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in *subparagraphs (A) and (B) of* paragraph (2).

[(2) MINIMUM REQUIREMENTS.—

[(A) IN GENERAL.—A State meets the requirements set forth in this paragraph if the State has a graduated driver licensing law that requires novice drivers younger than 18 years of age to comply with the 2-stage licensing process described in subparagraph (B) before receiving an unrestricted driver's license.

[(B) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this subparagraph if the State's driver's license laws include—

[(i) a learner's permit stage that—

[(I) is at least 6 months in duration;

[(II) contains a prohibition on the driver using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under paragraph (4) of that subsection, and makes a violation of the prohibition a primary offense;

[(III) requires applicants to successfully pass a vision and knowledge assessment prior to receiving a learner's permit;

[(IV) requires that the driver be accompanied and supervised at all times while the driver is operating a motor vehicle by a licensed driver who is at least 21 years of age or is a State-certified driving instructor;

[(V) has a requirement that the driver—

[(aa) complete a State-certified driver education or training course; or

[(bb) obtain at least 50 hours of behind-the-wheel training, with at least 10 hours at night, with a licensed driver; and

[(VI) remains in effect until the driver—

[(aa) reaches 16 years of age and enters the intermediate stage; or

[(bb) reaches 18 years of age;

[(ii) an intermediate stage that—

[(I) commences immediately after the expiration of the learner's permit stage and successful completion of a driving skills assessment;

[(II) is at least 6 months in duration;

[(III) prohibits the driver from using a personal wireless communications device (as defined in subsection (e)) while driving except under an exception permitted under paragraph (4) of that subsection, and makes a violation of the prohibition a primary offense;

[(IV) for the first 6 months of the intermediate stage, restricts driving at night between the hours of 10:00 p.m. and 5:00 a.m. when not supervised by a licensed driver 21 years of age or older, excluding transportation to work, school, religious activities, or emergencies;

[(V) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

[(VI) remains in effect until the driver reaches 17 years of age; and

[(iii) learner's permit and intermediate stages that each require, in addition to any other penalties imposed by State law, that the granting of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense during the first 6 months, including—

[(I) driving while intoxicated;

[(II) misrepresentation of the individual's age;

[(III) reckless driving;

[(IV) driving without wearing a seat belt;

[(V) speeding; or

[(VI) any other driving-related offense, as determined by the Secretary.]

(2) MINIMUM REQUIREMENTS.—

(A) TIER 1 STATE.—A State shall be eligible for a grant under this subsection as a Tier 1 State if such State requires novice drivers younger than 18 years of age to comply with a 2-stage graduated driver licensing process before receiving an unrestricted driver's license that includes—

(i) a learner's permit stage that—

(I) is at least 180 days in duration;

(II) requires that the driver be accompanied and supervised at all times; and

(III) has a requirement that the driver obtain at least 40 hours of behind-the-wheel training with a supervisor; and

(ii) an intermediate stage that—

(I) commences immediately after the expiration of the learner's permit stage;

(II) is at least 180 days in duration; and

(III) for the first 180 days of the intermediate stage, restricts the driver from—

(aa) driving at night between the hours of 11:00 p.m. and at least 4:00 a.m. except—

(AA) when a parent, guardian, driving instructor, or licensed driver who is at least 21 years of age is in the motor vehicle; and

(BB) when driving to and from work, school and school-related activities, religious activities, for emergencies, or as a member of voluntary emergency service; and

(bb) operating a motor vehicle with more than 1 nonfamilial passenger younger than 18 years of age, except when a parent, guardian, driving instructor, or licensed driver who is at least 21 years of age is in the motor vehicle.

(B) TIER 2 STATE.—A State shall be eligible for a grant under this subsection as a Tier 2 State if such State requires novice drivers younger than 18 years of age to comply with a 2-stage graduated driver licensing process before receiving an unrestricted driver's license that includes—

(i) a learner's permit stage that—

(I) is at least 180 days in duration;

(II) requires that the driver be accompanied and supervised at all times; and

(III) has a requirement that the driver obtain at least 50 hours of behind-the-wheel training, with at least 10 hours at night, with a supervisor; and

(ii) an intermediate stage that—

(I) commences immediately after the expiration of the learner's permit stage;

(II) is at least 180 days in duration; and

(III) for the first 180 days of the intermediate stage, restricts the driver from—

(aa) driving at night between the hours of 10:00 p.m. and at least 4:00 a.m. except—

(AA) when a parent, guardian, driving instructor, or licensed driver who is at least 21 years of age is in the motor vehicle; and

(BB) when driving to and from work, school and school-related activities, religious activities, for emergencies, or as a member of voluntary emergency service; and

(bb) operating a motor vehicle with any nonfamilial passenger younger than 18 years

of age, except when a parent, guardian, driving instructor, or licensed driver who is at least 21 years of age is in the motor vehicle.

(3) RULEMAKING.—

(A) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements set forth in *subparagraphs (A) and (B) of* paragraph (2), in accordance with the notice and comment provisions under section 553 of title 5.

(B) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in *subparagraphs (A) and (B) of* paragraph (2) shall be deemed by the Secretary to be in compliance with the requirement set forth in *subparagraphs (A) and (B) of* paragraph (2) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

(i) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

(ii) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

(4) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to a State's apportionment under section 402 for ⟦such fiscal year⟧ *fiscal year 2009*.

⟦(5) USE OF FUNDS.—Of the grant funds received by a State under this subsection—

⟦(A) at least 25 percent shall be used for—

⟦(i) enforcing a 2-stage licensing process that complies with paragraph (2);

⟦(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

⟦(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

⟦(iv) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

⟦(v) carrying out a teen traffic safety program described in section 402(m); and

⟦(B) up to 75 percent may be used for any eligible project or activity under section 402.⟧

(5) USE OF FUNDS.—

(A) TIER 1 STATES.—A Tier 1 State shall use grant funds provided under this subsection for—

(i) enforcing a 2-stage licensing process that complies with paragraph (2);

(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

(iv) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; or

(v) carrying out a teen traffic safety program described in section 402(m).

(B) TIER 2 STATES.—Of the grant funds made available to a Tier 2 State under this subsection—

(i) 25 percent shall be used for any activity described in subparagraph (A); and

(ii) 75 percent may be used for any project or activity eligible under section 402.

(6) SPECIAL RULE.—Notwithstanding paragraph (5), up to 100 percent of grant funds received by a State under this subsection may be used for any eligible project or activity under section 402, if the State is in the lowest 25 percent of all States for the number of drivers under age 18 involved in fatal crashes in the State per the total number of drivers under age 18 in the State based on the most recent data that conforms with criteria established by the Secretary.

(h) NONMOTORIZED SAFETY.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to States for the purpose of decreasing pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle.

(2) FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using amounts from a grant awarded under this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the annual combined pedestrian and bicycle fatalities in the State exceed 15 percent of the total annual crash fatalities in the State, based on the most recently reported final data from the Fatality Analysis Reporting System.

(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection may be used for—

(A) training of law enforcement officials on State laws applicable to pedestrian and bicycle safety;

(B) enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to pedestrian and bicycle safety; and

(C) public education and awareness programs designed to inform motorists, pedestrians, and bicyclists of State traffic laws applicable to pedestrian and bicycle safety.

(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(i) DRIVER AND OFFICER SAFETY EDUCATION.—

(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary shall award grants to—

(A) States that enact a commuter safety education program; and

(B) States qualifying under paragraph (5)(A).

(2) FEDERAL SHARE.—The Federal share of the costs of activities carried out using amounts from a grant awarded under this subsection may not exceed 80 percent.

(3) ELIGIBILITY.—To be eligible for a grant under this subsection, a State shall enact a law or adopt a program that requires the following:

(A) DRIVER EDUCATION AND DRIVING SAFETY COURSES.—Inclusion, in driver education and driver safety courses provided to individuals by educational and motor vehicle agencies of the State, of instruction and testing concerning law enforcement practices during traffic stops, including information on—

(i) the role of law enforcement and the duties and responsibilities of peace officers;

(ii) an individual's legal rights concerning interactions with peace officers;

(iii) best practices for civilians and peace officers during such interactions;

(iv) the consequences for an individual's or officer's failure to comply with those laws and programs; and

(v) how and where to file a complaint against or a compliment on behalf of a peace officer.

(B) PEACE OFFICER TRAINING PROGRAMS.—Development and implementation of a training program, including instruction and testing materials, for peace officers and reserve law enforcement officers (other than officers who have received training in a civilian course described in subparagraph (A)) with respect to proper interaction with civilians during traffic stops.

(4) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

(5) SPECIAL RULE FOR CERTAIN STATES.—

(A) QUALIFYING STATE.—A State qualifies pursuant to this subparagraph if—

(i) the Secretary determines such State has taken meaningful steps toward the full implementation of a law or program described in paragraph (3);

(ii) the Secretary determines such State has established a timetable for the implementation of such a law or program; and

(iii) such State has received a grant pursuant to this subsection for a period of not more than 5 years.

(B) WITHHOLDING.—With respect to a State that qualifies pursuant to subparagraph (A), the Secretary shall—

(i) withhold 50 percent of the amount that such State would otherwise receive if such State were a State described in paragraph (1)(A); and

(ii) direct any such amounts for distribution among the States that are enforcing and carrying out a law or program described in paragraph (3).

(6) USE OF GRANT AMOUNTS.—A State receiving a grant under this subsection may use such grant—

(A) for the production of educational materials and training of staff for driver education and driving safety courses and peace officer training described in paragraph (3); and

(B) for the implementation of the law described in paragraph (3).

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CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec.

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520. Every Day Counts initiative.

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§ 503. Research and technology development and deployment

(a) IN GENERAL.—The Secretary shall—

(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary under [section 508] *section 6503 of title 49*.

(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

(A) identify research topics;

(B) coordinate research and development activities;

(C) carry out research, testing, and evaluation activities; and

(D) provide technology transfer and technical assistance.

(2) IMPROVING HIGHWAY SAFETY.—

(A) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

(i) to achieve greater long-term safety gains;

(ii) to reduce the number of fatalities and serious injuries on public roads;

(iii) to fill knowledge gaps that limit the effectiveness of research;

(iv) to support the development and implementation of State strategic highway safety plans;

(v) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

(vi) to expand technology transfer to partners and stakeholders.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) safety assessments and decisionmaking tools;

(ii) data collection and analysis;

(iii) crash reduction projections;

(iv) low-cost safety countermeasures;

(v) innovative operational improvements and designs of roadway and roadside features;

(vi) evaluation of countermeasure costs and benefits;

(vii) development of tools for projecting impacts of safety countermeasures;

(viii) rural road safety measures;

(ix) safety measures for vulnerable road users, including bicyclists and pedestrians;

(x) safety policy studies;

(xi) human factors studies and measures;

(xii) safety technology deployment;

(xiii) safety workforce professional capacity building initiatives;

(xiv) safety program and process improvements; and

(xv) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(3) IMPROVING INFRASTRUCTURE INTEGRITY.—

(A) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

(i) to maintain infrastructure integrity;

(ii) to meet user needs**[**; and**]***;*

(iii) to link Federal transportation investments to improvements in system performance**[**.**]***; and*

(iv) to reduce greenhouse gas emissions and limit the effects of climate change.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

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

(ii) to improve the safety and security of highway infrastructure;

(iii) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

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

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

(vi) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

(vii) to reduce the environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

(viii) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

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

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

(iii) research to develop more durable infrastructure materials and systems;

(iv) advanced infrastructure design methods;

(v) accelerated highway and bridge construction;

(vi) performance-based specifications;

(vii) construction and materials quality assurance;

(viii) comprehensive and integrated infrastructure asset management;

(ix) infrastructure safety assurance;

(x) sustainable infrastructure design and construction;

(xi) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

(xii) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

(xiii) improved highway construction technologies and practices;

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

(xv) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

(xvi) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

(xvii) studies of infrastructure resilience and other adaptation measures;

(xviii) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; and

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

[(D) LIFECYCLE COSTS ANALYSIS STUDY.—

[(i) IN GENERAL.—In this subparagraph, the term "lifecycle costs analysis" means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

[(ii) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs and benefits for federally funded highway projects, which shall include, at a minimum, a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

[(iii) CONSULTATION.—In carrying out the study, the Comptroller shall consult with, at a minimum—

[(I) the American Association of State Highway and Transportation Officials;

[(II) appropriate experts in the field of lifecycle cost analysis; and

[(III) appropriate industry experts and research centers.

[(E) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives a report on the results of the study which shall include—

[(i) a summary of the latest research on lifecycle cost analysis; and

[(ii) recommendations on the appropriate—

[(I) period of analysis;

[(II) design period;

[(III) discount rates; and

[(IV) use of actual material life and maintenance cost data.]

(4) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

(A) IN GENERAL.—The Secretary may carry out research—

(i) to minimize the cost of transportation planning and environmental decisionmaking processes;

(ii) to improve transportation planning and environmental decisionmaking processes[; and];

(iii) to minimize the potential impact of surface transportation on the environment[.]*; and*

(iv) to reduce greenhouse gas emissions and limit the effects of climate change.

(B) OBJECTIVES.—In carrying out this paragraph the Secretary may carry out research and development activities—

(i) to minimize the cost of highway infrastructure and operations;

(ii) to reduce the potential impact of highway infrastructure and operations on the environment;

(iii) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

(iv) to improve construction techniques;

(v) to accelerate construction to reduce congestion and related emissions;

(vi) to reduce the impact of highway runoff on the environment;

(vii) to improve understanding and modeling of the factors that contribute to the demand for transportation; and

(viii) to improve transportation planning decisionmaking and coordination.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) creation of models and tools for evaluating transportation measures and transportation system designs, including the costs and benefits;

(ii) congestion reduction efforts;

(iii) transportation and economic development planning in rural areas and small communities;

(iv) improvement of State, local, and tribal government capabilities relating to surface transportation planning and the environment; and

(v) streamlining of project delivery processes.

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

(A) IN GENERAL.—The Secretary shall carry out research under this paragraph with the goals of—

(i) addressing congestion problems;

(ii) reducing the costs of congestion;

(iii) improving freight movement;

(iv) increasing productivity[; and]*;*

(v) improving the economic competitiveness of the United States[.]*; and*

(vi) reducing greenhouse gas emissions and limiting the effects of climate change.

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

(i) to reduce traffic congestion;

(ii) to improve freight movement; and

(iii) to reduce freight-related congestion throughout the transportation network.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) active traffic and demand management;

(ii) acceleration of the implementation of Intelligent Transportation Systems technology;

(iii) advanced transportation concepts and analysis;

(iv) arterial management and traffic signal operation;

(v) congestion pricing;

(vi) corridor management;

(vii) emergency operations;

(viii) research relating to enabling technologies and applications;

(ix) freeway management;

(x) evaluation of enabling technologies;

(xi) impacts of vehicle size and weight on congestion;

(xii) freight operations and technology;

(xiii) operations and freight performance measurement and management;

(xiv) organization and planning for operations;

(xv) planned special events management;

(xvi) real-time transportation information;

(xvii) road weather management;

(xviii) traffic and freight data and analysis tools;

(xix) traffic control devices;

(xx) traffic incident management;

(xxi) work zone management;

(xxii) communication of travel, roadway, and emergency information to persons with disabilities;

(xxiii) research on enhanced mode choice and intermodal connectivity;

(xxiv) techniques for estimating and quantifying public benefits derived from freight transportation projects; and

(xxv) other research areas to identify and address emerging needs related to freight transportation by all modes.

(6) EXPLORATORY ADVANCED RESEARCH.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

(A) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

(B) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

(7) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

(A) IN GENERAL.—The Secretary shall continue to operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

(B) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

(i) the conduct of highway research and development relating to emerging highway technology;

(ii) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

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

(iv) the conduct of long-term, high-risk research to improve the materials used in highway infrastructure.

(8) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

(A) IN GENERAL.—Not later than July 31, 2013, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

(B) COMPARISONS.—Each report under subparagraph (A) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

(C) INCLUSIONS.—Each report under subparagraph (A) shall provide recommendations to Congress on changes to the highway performance monitoring system that address—

(i) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

(ii) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis,

reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

(9) ANALYSIS TOOLS.—The Secretary may develop interactive modeling tools and databases that—

(A) track the condition of highway assets, including interchanges, and the reconstruction history of such assets;

(B) can be used to assess transportation options;

(C) allow for the monitoring and modeling of network-level traffic flows on highways; and

(D) further Federal and State understanding of the importance of national and regional connectivity and the need for long-distance and interregional passenger and freight travel by highway and other surface transportation modes.

(10) PERFORMANCE MANAGEMENT DATA SUPPORT PROGRAM.—

(A) PERFORMANCE MANAGEMENT DATA SUPPORT.—The Administrator of the Federal Highway Administration shall develop, use, and maintain data sets and data analysis tools to assist metropolitan planning organizations, States, and the Federal Highway Administration in carrying out performance management analyses (including the performance management requirements under section 150).

(B) INCLUSIONS.—The data analysis activities authorized under subparagraph (A) may include—

(i) collecting and distributing vehicle probe data describing traffic on Federal-aid highways;

(ii) collecting household travel behavior data to assess local and cross-jurisdictional travel, including to accommodate external and through travel;

(iii) enhancing existing data collection and analysis tools to accommodate performance measures, targets, and related data, so as to better understand trip origin and destination, trip time, and mode;

(iv) enhancing existing data analysis tools to improve performance predictions and travel models in reports described in section 150(e);

(v) developing tools—

(I) to improve performance analysis; and

(II) to evaluate the effects of project investments on performance;

(vi) assisting in the development or procurement of the transportation system access data under section 1403(g) of the INVEST in America Act; and

(vii) developing tools and acquiring data described under paragraph (9).

(C) FUNDING.—The Administrator of the Federal Highway Administration may use up to $15,000,000 for each of fiscal years 2022 through 2025 to carry out this paragraph.

(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing,

operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

(A) significantly accelerating the adoption of innovative technologies by the surface transportation community*, while considering the impacts on jobs*;

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

(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability**[**; and**]***;*

(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation**[**.**]***; and*

(F) reducing greenhouse gas emissions and limiting the effects of climate change.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter**[**.**]** *and findings from the materials to reduce greenhouse gas emissions program under subsection (d).*

(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

(i) establish and carry out demonstration programs;

(ii) provide technical assistance, and training to researchers and developers; and

(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall promote research results and products developed under the future strategic highway research program administered by the Transportation Research Board of the National Academy of Sciences.

(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph.

(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

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

(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques**[**; and**]***;*

(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction**[**.**]***; and*

(vii) the deployment of innovative pavement designs, materials, and practices that reduce or sequester the amount of greenhouse gas emissions generated during the production of highway materials and the construction of highways, with consideration for findings from the materials to reduce greenhouse gas emissions program under subsection (d).

(C) FUNDING.—The Secretary shall obligate for each of **[**fiscal years 2016 through 2020**]** *fiscal years 2022 through 2025* from funds made available to carry out this subsection $12,000,000 to accelerate the deployment and implementation of pavement technology.

(D) PUBLICATION.—

(i) IN GENERAL.—Not less frequently than annually, the Secretary shall issue and make available to the public on an Internet website a report on the cost and benefits from deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

(ii) INCLUSIONS.—The report under clause (i) may include an analysis of—

(I) Federal, State, and local cost savings;

(II) project delivery time improvements;

(III) reduced fatalities[; and]*;*

(IV) congestion impacts[.]*;*

(V) pavement monitoring and data collection practices;

(VI) pavement durability and resilience;

(VII) stormwater management;

(VIII) impacts on vehicle efficiency;

(IX) the energy efficiency of the production of paving materials and the ability of paving materials to enhance the environment and promote sustainability;

(X) integration of renewable energy in pavement designs; and

(XI) greenhouse gas emissions reduction, including findings from the materials to reduce greenhouse gas emissions program under subsection (d).

(4) ADVANCED TRANSPORTATION TECHNOLOGIES DEPLOYMENT.—

(A) IN GENERAL.—[Not later than 6 months after the date of enactment of this paragraph, the] *The* Secretary shall [establish an advanced transportation and congestion management technologies deployment] *establish a safe, efficient mobility through advanced technologies* initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, *mobility,* efficiency, system performance, *environmental impacts,* and infrastructure return on investment.

(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

[(i) reduce costs and improve return on investments, including through the enhanced use of existing transportation capacity;]

(i) reduce costs, improve return on investments, and improve person throughput and mobility, including through the optimization of existing transportation capacity;

(ii) deliver environmental benefits that alleviate congestion and streamline traffic flow;

(iii) measure and improve the operational performance of the applicable transportation network;

(iv) reduce the number and severity of traffic crashes and increase driver, passenger, and *bicyclist and* pedestrian safety;

(v) collect, disseminate, and use real-time traffic, transit, parking, and other transportation-related information to improve mobility, reduce congestion, and provide for more efficient and accessible transportation;

(vi) monitor transportation assets to improve infrastructure management, reduce maintenance costs, prioritize investment decisions, and ensure a state of good repair;

(vii) deliver economic benefits by reducing delays, improving system performance, and providing for the efficient and reliable movement of goods and services**[**; or**]***;*

(viii) **[**accelerate**]** *prepare for* the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, autonomous vehicles, and other technologies**[**.**]***; or*

(ix) reduce greenhouse gas emissions and limit the effects of climate change.

(C) APPLICATIONS.—

(i) REQUEST.—Not later than 6 months after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall request applications in accordance with clause (ii).

(ii) CONTENTS.—An application submitted under this subparagraph shall include the following:

(I) PLAN.—A plan to deploy and provide for the long-term operation and maintenance of advanced transportation and congestion management technologies to improve safety, efficiency, system performance, and return on investment.

(II) OBJECTIVES.—Quantifiable system performance improvements, such as—

(aa) reducing traffic-related crashes, **[**congestion**]** *congestion and delays, greenhouse gas emissions*, and costs;

(bb) optimizing system efficiency; and

(cc) improving access to transportation services.

(III) RESULTS.—Quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the region's transportation system efficiency and reduce traffic congestion.

(IV) PARTNERSHIPS.—A plan for partnering with the private sector or public agencies, including multimodal and multijurisdictional entities, research institutions, organizations representing

transportation and technology leaders, or other transportation stakeholders.

(V) LEVERAGING.—A plan to leverage and optimize existing local and regional advanced transportation technology investments.

(iii) CONSIDERATIONS.—An application submitted under this paragraph may include a description of how the proposed project would support the national goals described in section 150(b), the achievement of metropolitan and statewide targets established under section 150(d), or the improvement of transportation system access consistent with section 150(f), including through—

(I) the congestion and on-road mobile-source emissions performance measure established under section 150(c)(5); or

(II) the greenhouse gas emissions performance measure established under section 150(c)(7).

(D) GRANT SELECTION.—

(i) GRANT AWARDS.—Not later than 1 year after the date of enactment of this paragraph, and for every fiscal year thereafter, the Secretary shall award grants to not less than 5 and not more than 10 eligible entities.

(ii) GEOGRAPHIC DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States, including urban and rural areas.

(iii) TECHNOLOGY DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse technology solutions.

(iv) PRIORITIZATION.—In awarding a grant under this paragraph, the Secretary shall prioritize projects that, in accordance with the criteria described in subparagraph (B)—

(I) improve person throughput and mobility, including through the optimization of existing transportation capacity;

(II) deliver environmental benefits;

(III) reduce the number and severity of traffic accidents and increase driver, passenger, and bicyclist and pedestrian safety; or

(IV) reduce greenhouse gas emissions.

(v) GRANT DISTRIBUTION.—The Secretary shall award not fewer than 3 grants under this paragraph based on the potential of the project to reduce the number and severity of traffic crashes and increase, driver, passenger, and bicyclist and pedestrian safety.

(E) USE OF GRANT FUNDS.—A grant recipient may use funds awarded under this paragraph to deploy advanced transportation and congestion management technologies, including—

(i) advanced traveler information systems;

(ii) advanced transportation management technologies;

(iii) infrastructure maintenance, monitoring, and condition assessment;

(iv) advanced public transportation systems;

(v) transportation system performance data collection, analysis, and dissemination systems;

(vi) advanced safety systems, including vehicle-to-vehicle*, vehicle-to-pedestrian,* and vehicle-to-infrastructure communications, *systems to improve vulnerable road user safety,* technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;

(vii) integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;

(viii) electronic pricing and payment systems; or

(ix) advanced mobility and access technologies, such as dynamic ridesharing and information systems to support human services for elderly and disabled individuals*, including activities under section 5316 of title 49*.

(F) REPORT TO SECRETARY.—For each eligible entity that receives a grant under this paragraph, not later than 1 year after the entity receives the grant, and each year thereafter, the entity shall submit a report to the Secretary that describes—

(i) deployment and operational costs of the project compared to the benefits and savings the project provides; and

(ii) how the project has met the original expectations projected in the deployment plan submitted with the application, such as—

(I) data on how the project has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

(II) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

(III) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public to make informed travel decisions; and

(IV) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

[(G) REPORT.—Not later than 3 years after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on an Internet website a report that describes the effectiveness of grant recipients in meeting their pro-

jected deployment plans, including data provided under subparagraph (F) on how the program has—

[(i) reduced traffic-related fatalities and injuries;

[(ii) reduced traffic congestion and improved travel time reliability;

[(iii) reduced transportation-related emissions;

[(iv) optimized multimodal system performance;

[(v) improved access to transportation alternatives;

[(vi) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

[(vii) provided cost savings to transportation agencies, businesses, and the traveling public; or

[(viii) provided other benefits to transportation users and the general public.]

(G) REPORTING.—

(i) APPLICABILITY OF LAW.—The program under this paragraph shall be subject to the accountability and oversight requirements in section 106(m).

(ii) REPORT.—Not later than 1 year after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on a website a report that describes the effectiveness of grant recipients in meeting their projected deployment plans, including data provided under subparagraph (F) on how the program has—

(I) reduced traffic-related fatalities and injuries;

(II) reduced traffic congestion and improved travel time reliability;

(III) reduced transportation-related emissions;

(IV) optimized multimodal system performance;

(V) improved access to transportation alternatives;

(VI) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

(VII) provided cost savings to transportation agencies, businesses, and the traveling public;

(VIII) created or maintained transportation jobs and supported transportation workers; or

(IX) provided other benefits to transportation users and the general public.

(iii) CONSIDERATIONS.—If applicable, the Secretary shall ensure that the activities described in subclauses (I) and (IV) of clause (ii) reflect—

(I) any information described in subparagraph (C)(iii) that is included by an applicant; or

(II) the project prioritization guidelines under subparagraph (D)(iv).

(H) ADDITIONAL GRANTS.—The Secretary may cease to provide additional grant funds to a recipient of a grant under this paragraph if—

(i) the Secretary determines from such recipient's report that the recipient is not carrying out the requirements of the grant; and

(ii) the Secretary provides written notice 60 days prior to withholding funds to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate.

(I) FUNDING.—

[(i) IN GENERAL.—From funds made available to carry out subsection (b), this subsection, and sections 512 through 518, the Secretary shall set aside for grants awarded under subparagraph (D) $60,000,000 for each of fiscal years 2016 through 2020.**]**

[(ii) EXPENSES FOR THE SECRETARY.—**]** **[**Of the amounts set aside under clause (i), the Secretary may set aside**]** *Of the amounts made available to carry out this paragraph, the Secretary may set aside* $2,000,000 each fiscal year for program reporting, evaluation, and administrative costs related to this paragraph.

(J) FEDERAL SHARE.—The Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 50 percent of the cost of the project**[**.**]**, *except that the Federal share of the cost of a project for which a grant is awarded under this paragraph shall not exceed 80 percent.*

(K) GRANT LIMITATION.—The Secretary may not award more than 20 percent of the **[**amount described under subparagraph (I)**]** *funds made available to carry out this paragraph* in a fiscal year to a single grant recipient.

(L) EXPENSES FOR GRANT RECIPIENTS.—A grant recipient under this paragraph may use not more than 5 percent of the funds awarded each fiscal year to carry out planning and reporting requirements.

[(M) GRANT FLEXIBILITY.—

[(i) IN GENERAL.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements described in subparagraph (C) to carry out this section for a fiscal year, the Secretary shall transfer to the programs specified in clause (ii)—

[(I) any of the funds reserved for the fiscal year under subparagraph (I) that the Secretary has not yet awarded under this paragraph; and

[(II) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subclause (I).

[(ii) PROGRAMS.—The programs referred to in clause (i) are—

[(I) the program under subsection (b);

[(II) the program under this subsection; and

[(III) the programs under sections 512 through 518.

[(iii) DISTRIBUTION.—Any transfer of funds and obligation limitation under clause (i) shall be divided among the programs referred to in that clause in the same proportions as the Secretary originally reserved funding from the programs for the fiscal year under subparagraph (I).]

(M) GRANT FLEXIBILITY.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements described in subparagraph (C) to carry out this paragraph for a fiscal year, the Secretary shall transfer to the technology and innovation deployment program—

(i) any of the funds made available to carry out this paragraph in a fiscal year that the Secretary has not yet awarded under this paragraph; and

(ii) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under clause (i).

(N) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government, a transit agency, metropolitan planning organization representing *an urbanized area with* a population of over 200,000, or other political subdivision of a State or local government or a multijurisdictional group or a consortia of research institutions or academic institutions.

(ii) ADVANCED AND CONGESTION MANAGEMENT TRANSPORTATION TECHNOLOGIES.—The term "advanced transportation and congestion management technologies" means technologies that improve the efficiency, safety, or state of good repair of surface transportation systems, including intelligent transportation systems.

(iii) MULTIJURISDICTIONAL GROUP.—The term "multijurisdictional group" means [a any] *any* combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State for which each member of the group—

(I) has signed a written agreement to implement the advanced transportation technologies deployment initiative across jurisdictional boundaries; and

(II) is an eligible entity under this paragraph.

(d) MATERIALS TO REDUCE GREENHOUSE GAS EMISSIONS PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall establish and implement a program under which the Secretary shall award grants to eligible entities to research and support the development of materials that will reduce or sequester the amount of greenhouse gas emissions generated during the production of highway materials and the construction of highways.

(2) ACTIVITIES.—The Secretary shall ensure that the program, at a minimum—

(A) carries out research to determine the materials proven to most effectively reduce or sequester greenhouse gas emissions;

(B) evaluates and improves the ability of materials to most effectively reduce or sequester greenhouse gas emissions; and

(C) supports the development and deployment of materials that will reduce or sequester greenhouse gas emissions.

(3) COMPETITIVE SELECTION PROCESS.—

(A) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(B) CONSIDERATION.—In making grants under this subsection, the Secretary shall consider the degree to which applicants presently carry out research on materials that reduce or sequester greenhouse gas emissions.

(C) SELECTION CRITERIA.—The Secretary may make grants under this subsection to any eligible entity based on the demonstrated ability of the applicant to fulfill the activities described in paragraph (2).

(D) TRANSPARENCY.—

(i) IN GENERAL.—The Secretary shall provide to each eligible entity submitting an application under this subsection, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the application of such entity.

(ii) REPORTS.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process for a grant under this subsection, including—

(I) specific criteria of evaluation used in the review;

(II) descriptions of the review process; and

(III) explanations of the grants awarded.

(4) GRANTS.—

(A) RESTRICTIONS.—

(i) IN GENERAL.—For each fiscal year, a grant made available under this subsection shall be not greater than $4,000,000 and not less than $2,000,000 per recipient.

(ii) LIMITATION.—An eligible entity may only receive 1 grant in a fiscal year under this subsection.

(B) MATCHING REQUIREMENTS.—

(i) IN GENERAL.—As a condition of receiving a grant under this subsection, a grant recipient shall match 50 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b); or

(II) section 505.

(5) PROGRAM COORDINATION.—

(A) IN GENERAL.—The Secretary shall—

(i) coordinate the research, education, and technology transfer activities carried out by grant recipients under this subsection;

(ii) disseminate the results of that research through the establishment and operation of a publicly accessible online information clearinghouse; and

(iii) to the extent practicable, support the deployment and commercial adoption of effective materials researched or developed under this subsection to relevant stakeholders.

(B) ANNUAL REVIEW AND EVALUATION.—Not later than 2 years after the date of enactment of this subsection, and not less frequently than annually thereafter, the Secretary shall, consistent with the activities in paragraph (3)—

(i) review and evaluate the programs carried out under this subsection by grant recipients, describing the effectiveness of the program in identifying materials that reduce or sequester greenhouse gas emissions;

(ii) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing such review and evaluation; and

(iii) make the report in clause (ii) available to the public on a website.

(6) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to carry out this subsection shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are authorized.

(7) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this subsection, including

customer satisfaction assessments, shall not be subject to chapter 35 of title 44.

(8) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term "eligible entity" means a nonprofit institution of higher education, as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

§ 504. Training and education

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a National Highway Institute (in this subsection referred to as the "Institute"). The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

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

(A) Federal Highway Administration, State, and local transportation agency employees and the employees of any other applicable Federal agency;

(B) regional, State, and metropolitan planning organizations;

(C) State and local police, public safety, and motor vehicle employees; and

(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

(3) COURSES.—

(A) IN GENERAL.—The Institute shall—

(i) develop or update existing courses in asset management, including courses that include such components as—

(I) the determination of life-cycle costs;

(II) the valuation of assets;

(III) benefit-to-cost ratio calculations; and

(IV) objective decisionmaking processes for project selection; and

(ii) continually develop courses relating to the application of emerging technologies for—

(I) transportation infrastructure applications and asset management;

(II) intelligent transportation systems;

(III) operations (including security operations);

(IV) the collection and archiving of data;

(V) reducing the amount of time required for the planning and development of transportation projects; and

(VI) the intermodal movement of individuals and freight.

(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

(i) review the course inventory of the Institute; and

(ii) revise or cease to offer courses based on course content, applicability, and need.

(4) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/2 of 1 percent of the funds apportioned to a State under section 104(b)(2) for the surface transportation [block grant] program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

(5) FEDERAL RESPONSIBILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

(7) COLLECTION OF FEES.—

(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

(ii) persons and entities to whom education or training is provided under this subsection.

(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under paragraph (7).

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

(A) highway and transportation agencies in urbanized and rural areas;

(B) contractors that perform work for the agencies; and

(C) infrastructure security staff.

(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

(ii) improve roads and bridges;

(iii) enhance—

(I) programs for the movement of passengers and freight; and

(II) intergovernmental transportation planning and project selection; and

(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

(B) develop technical assistance for tourism and recreational travel;

(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

(D) operate, in cooperation with State transportation departments and universities—

(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

(3) FEDERAL SHARE.—

(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

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

(c) RESEARCH FELLOWSHIPS.—

(1) GENERAL AUTHORITY.—The Secretary, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation, which program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program".

(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.

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

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

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

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

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

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

(3) APPLICATION AND REVIEW PROCEDURES.—

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

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

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

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

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

(B) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

(C) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

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

(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under paragraphs (1) through (4) *and (8) through (9)* of section 104(b) for surface transportation workforce development, training, and education, including—

(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

(B) employee professional development;

(C) student internships;

(D) university or community college support;

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

(F) tuition and direct educational expenses or other costs of instruction related to the work zone safety training and certification of employees of State and local transportation agencies and surface transportation construction workers;

[(F)**]** *(G)* activities carried out by the National Highway Institute under subsection (a); and

[(G)**]** *(H)* local technical assistance programs under subsection (b).

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

(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term "surface transportation workforce development, training, and education" means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.

(f) TRANSPORTATION EDUCATION DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.

(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary shall consider—

(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;

(B) providing for practical experience and on-the-job training;

(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;

(E) programs or curricula in nontraditional departments that train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and

(F) the commitment of industry or a State's department of transportation to the program.

(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee's program costs.

(4) REPORTS.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that includes—

(A) a list of all grant recipients under this subsection;

(B) an explanation of why each recipient was chosen in accordance with the criteria under paragraph (2);

(C) a summary of each recipient's objective to carry out the purpose described in paragraph (1) and an analysis of progress made toward achieving each such objective;

(D) an accounting for the use of Federal funds obligated or expended in carrying out this subsection; and

(E) an analysis of outcomes of the program under this subsection.

(g) FREIGHT CAPACITY BUILDING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and manage-

ment activities relating to the governance of the freight planning capacity initiative.

(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

(A) The identification and dissemination of best practices in freight transportation.

(B) Providing opportunities for freight transportation staff to engage in peer exchange.

(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental stewardship in connection with long-range multimodal transportation planning and project implementation.

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

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

(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

(1) IN GENERAL.—The Secretary shall make grants under this section to establish and maintain centers for surface transportation excellence.

(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), any centers established under paragraph (1) shall provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

(4) PROGRAM ADMINISTRATION.—

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

(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, that—

(i) is submitted to the Secretary at such time as the Secretary requires; and

(ii) describes—

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

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

* * * * * * *

§ 513. Use of funds for ITS activities

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

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

(2) MULTIJURISDICTIONAL GROUP.—The term "multijurisdictional group" means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

(B) is comprised of at least 2 members, each of whom is an eligible entity.

(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

(c) ITS ADOPTION.—

(1) INNOVATIVE TECHNOLOGIES AND STRATEGIES.—The Secretary shall encourage the deployment of ITS technologies that will improve the performance of the National Highway System in such areas as traffic operations, emergency response, inci-

dent management, surface transportation network management, freight management, traffic flow information, *greenhouse gas emissions reduction,* and congestion management by accelerating the adoption of innovative technologies through the use of—

(A) demonstration programs;

(B) grant funding;

(C) incentives to eligible entities; and

(D) other tools, strategies, or methods that will result in the deployment of innovative ITS technologies.

(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.

§ 514. Goals and purposes

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

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

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

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

(4) reduction of greenhouse gas emissions and mitigation of the effects of climate change;

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

[(5)**]** *(6)* enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters; and

[(6)**]** *(7)* enhancement of the national freight system and support to **[**national freight policy goals**]** *national multimodal freight policy goals and activities described in subtitle IX of title 49*.

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

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

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

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

(4) to promote the innovative use of private resources in support of intelligent transportation system development;

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

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

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

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

(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users; and

(10) to assist in the development of cybersecurity research in cooperation with relevant modal administrations of the Department of Transportation and other Federal agencies to help prevent hacking, spoofing, and disruption of connected and automated transportation vehicles.

§ 515. General authorities and requirements

(a) SCOPE.—Subject to the provisions of sections 512 through 518, the Secretary shall conduct an ongoing intelligent transportation system program—

(1) to research, develop, and operationally test intelligent transportation systems; and

(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to sections 512 through 518 shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

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

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

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate,

maintain, or evaluate intelligent transportation system technologies and services.

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

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under sections 512 through 518; and

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

(2) AGREEMENT.—

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

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

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

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out sections 512 through 518.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than [20 members] *25 members*, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a [State highway department] *State department of transportation*;

(B) a representative from a [local highway department] *local department of transportation* who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

[(E) a private sector user of intelligent transportation system technologies;

[(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

[(G) an academic researcher who is a civil engineer;

[(H) an academic researcher who is a social scientist with expertise in transportation issues;

[(I) a representative from a nonprofit group representing the intelligent transportation system industry;

[(J) a representative from a public interest group concerned with safety;]

(E) a private sector representative of the intelligent transportation systems industry;

(F) a representative from an advocacy group concerned with safety, including bicycle and pedestrian interests;

(G) a representative from a labor organization; and

[(K)] *(H)* a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

[(L) members with expertise in planning, safety, telecommunications, utilities, and operations.]

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under [section 508] *section 6503 of title 49*.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users *in both urban and rural areas*, and if not, to determine the barriers to deployment[; and]*;*

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered[.]*; and*

(iv) assess how Federal transportation resources, including programs under this title, are being used to advance intelligent transportation systems.

(C) Convene not less frequently than twice each year, either in person or remotely.

(4) REPORT.—Not later than [May 1] *April 1* of each year, the Secretary shall make available to the public on a Department of Transportation website a report that includes—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.)*, except that section 14 of such Act shall not apply*.

(i) REPORTING.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under sections 512 through 518.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under sections 512 through 518.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under sections 512 through 518 shall not be subject to chapter 35 of title 44, United States Code.

§ 516. Research and development

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

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

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

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

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

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

(5) demonstrate reductions in greenhouse gas emissions;

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

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

[(7)] *(8)* facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.

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§ 520. Every Day Counts initiative

(a) IN GENERAL.—It is in the national interest for the Department of Transportation, State departments of transportation, and all other recipients of Federal surface transportation funds—

(1) to identify, accelerate, and deploy innovation aimed at expediting project delivery;

(2) enhancing the safety of the roadways of the United States, and protecting the environment;

(3) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner;

(4) to promote the rapid deployment of proven solutions that provide greater accountability for public investments and encourage greater private sector involvement; and

(5) to create a culture of innovation within the highway community.

(b) EVERY DAY COUNTS INITIATIVE.—To advance the policy described in subsection (a), the Administrator of the Federal Highway Administration shall continue the Every Day Counts initiative to work with States, local transportation agencies, all other recipients of Federal surface transportation funds, and industry stakeholders, including labor representatives, to identify and deploy proven innovative practices and products that—

(1) accelerate innovation deployment;

(2) expedite the project delivery process;

(3) improve environmental sustainability;

(4) enhance roadway safety;

(5) reduce congestion; and

(6) reduce greenhouse gas emissions.

(c) CONSIDERATIONS.—In carrying out the Every Day Counts initiative, the Administrator shall consider any innovative practices and products in accordance with subsections (a) and (b), including—

(1) research results from the university transportation centers program under section 5505 of title 49; and

(2) results from the materials to reduce greenhouse gas emissions program in section 503(d).

(d) INNOVATION DEPLOYMENT.—

(1) IN GENERAL.—At least every 2 years, the Administrator shall work collaboratively with stakeholders to identify a new collection of innovations, best practices, and data to be deployed to highway stakeholders through case studies, outreach, and demonstration projects.

(2) REQUIREMENTS.—In identifying a collection described in paragraph (1), the Secretary shall take into account market

readiness, impacts, benefits, and ease of adoption of the innovation or practice.

(e) PUBLICATION.—Each collection identified under subsection (d) shall be published by the Administrator on a publicly available website.

(f) FUNDING.—The Secretary may use funds made available to carry out section 503(c) to carry out this section.

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CHAPTER 6—INFRASTRUCTURE FINANCE

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§ 602. Determination of eligibility and project selection

(a) ELIGIBILITY.—

(1) IN GENERAL.—A project shall be eligible to receive credit assistance under the TIFIA program if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

(B) the project meets the criteria described in this subsection.

(2) CREDITWORTHINESS.—

(A) IN GENERAL.—To be eligible for assistance under the TIFIA program, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

(i) a rate covenant, if applicable;

(ii) adequate coverage requirements to ensure repayment;

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

(iv) **[**a rating**]** *an investment grade rating* from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than **[**$75,000,000**]** *$150,000,000*, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is **[**the senior debt**]** *senior debt*, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the **[**credit instrument is for an amount less than $75,000,000**]** *total amount of other senior debt and the Federal credit instrument is less than $150,000,000*, in which case 1 rating agency opinion shall be sufficient.

(3) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—A project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an

agreement to make available a Federal credit instrument is entered into under the TIFIA program.

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

(5) ELIGIBLE PROJECT COST PARAMETERS.—

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

(i) $50,000,000; and

(ii) 331/3 percent of the amount of Federal highway funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(B) EXCEPTIONS.—

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

(ii) TRANSIT-ORIENTED DEVELOPMENT PROJECTS.—In the case of a project described in section 601(a)(12)(E), eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000.

(iii) RURAL PROJECTS.—In the case of a rural infrastructure project or a project capitalizing a rural projects fund, eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000, but not to exceed $100,000,000.

(iv) LOCAL INFRASTRUCTURE PROJECTS.—Eligible project costs shall be reasonably anticipated to equal or exceed $10,000,000 in the case of a project or program of projects—

(I) in which the applicant is a local government, public authority, or instrumentality of local government;

(II) located on a facility owned by a local government; or

(III) for which the Secretary determines that a local government is substantially involved in the development of the project.

(6) DEDICATED REVENUE SOURCES.—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

(A) tolls;

(B) user fees;

(C) payments owing to the obligor under a public-private partnership; or

(D) other dedicated revenue sources that also secure or fund the project obligations.

(7) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State

or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (3).

(8) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit to the Secretary an application under paragraph (4), under which a private party to a public-private partnership will be—

(A) the obligor; and

(B) identified later through completion of a procurement and selection of the private party.

(9) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under the TIFIA program will—

(A) foster, if appropriate, partnerships that attract public and private investment for the project;

(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project; and

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

(10) PROJECT READINESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under the TIFIA program, the applicant shall demonstrate a reasonable expectation that the contracting process for construction of the project can commence by no later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the State infrastructure bank shall demonstrate, not later than 2 years after the date on which a secured loan is obligated for the project under the TIFIA program, that the bank has executed a loan agreement with a borrower for a rural infrastructure project in accordance with section 610. After the demonstration is made, the bank may draw upon the secured loan. At the end of the 2-year period, to the extent the bank has not used the loan commitment, the Secretary may extend the term of the loan or withdraw the loan commitment.

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process under which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

(2) MASTER CREDIT AGREEMENTS.—

(A) PROGRAM OF RELATED PROJECTS.—The Secretary may enter into a master credit agreement for a program

of related projects secured by a common security pledge on terms acceptable to the Secretary.

(B) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects for a fiscal year and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait to execute a credit instrument until the fiscal year for which additional funds are available to receive credit assistance.

(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

(B) including a preliminary rating opinion on the Federal credit instrument.

(c) FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—In addition to the requirements of this title for highway projects, the requirements of chapter 53 of title 49 for transit projects, and the requirements of section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under the TIFIA program and projects assisted with those funds:

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

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

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

(2) NEPA.—No funding shall be obligated for a project that has not received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) APPLICATION PROCESSING PROCEDURES.—

(1) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice to inform the applicant whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(2) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under the TIFIA program may be used to finance up to 100 percent of the cost of development phase activities as described in section 601(a)(1)(A).

§ 603. Secured loans

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project selected under section 602;

(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

(C) to refinance existing Federal credit instruments for rural infrastructure projects; or

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

(i) is selected under section 602; or

(ii) otherwise meets the requirements of section 602.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B)—

(A) if the maturity of such interim construction financing is later than 1 year after the substantial completion of the project; and

(B) later than 1 year after the date of substantial completion of the project.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

(b) TERMS AND LIMITATIONS.—

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

(2) MAXIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of a secured loan under this section shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the maximum amount of a secured loan made to a State infrastructure bank shall be determined in accordance with section 602(a)(5)(B)(iii).

(3) PAYMENT.—A secured loan under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) tolls;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership;

(IV) other dedicated revenue sources that also secure the senior project obligations; or

(V) in the case of a secured loan for a project capitalizing a rural projects fund, any other dedicated revenue sources available to a State infrastructure bank, including repayments from loans made by the bank for rural infrastructure projects; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(4) INTEREST RATE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(B) RURAL INFRASTRUCTURE PROJECTS.—

(i) IN GENERAL.—The interest rate of a loan offered to a rural infrastructure project or a rural projects fund under the TIFIA program shall be at 1/2 of the Treasury Rate in effect on the date of execution of the loan agreement.

(ii) APPLICATION.—The rate described in clause (i) shall only apply to any portion of a loan the subsidy cost of which is funded by amounts set aside for rural infrastructure projects and rural project funds under section 608(a)(3)(A).

(C) LIMITED BUYDOWNS.—The interest rate of a secured loan under this section may not be lowered by more than the lower of—

(i) 11/2 percentage points (150 basis points); or

(ii) the amount of the increase in the interest rate.

(5) MATURITY DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the final maturity date of the secured loan shall be the lesser of—

(i) 35 years after the date of substantial completion of the project; and

(ii) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

(B) RURAL PROJECTS FUND.—In the case of a project capitalizing a rural projects fund, the final maturity date of the secured loan shall not exceed 35 years after the date on which the secured loan is obligated.

(6) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PREEXISTING INDENTURE.—

(i) IN GENERAL.—The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan is rated in the A category or higher;

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the TIFIA program share of eligible project costs is 33 percent or less.

(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost, if any.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

[(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under the TIFIA program may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.]

(8) NON-FEDERAL SHARE.—Notwithstanding paragraph (9) and section 117(j)(2), the proceeds of a secured loan under the TIFIA program shall be considered to be part of the non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

(9) MAXIMUM FEDERAL INVOLVEMENT.—

(A) IN GENERAL.—The total Federal assistance provided for a project receiving a loan under the TIFIA program shall not exceed 80 percent of the total project cost.

(B) RURAL PROJECTS FUND.—A project capitalizing a rural projects fund shall satisfy subparagraph (A) through compliance with the Federal share requirement described in section 610(e)(3)(B).

(C) TERRITORIES.—Funds provided for a territory under section 165(c) shall not be considered Federal assistance for purposes of subparagraph (A).

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the project.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) REPAYMENT STANDARDS.—The criteria established pursuant to clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this

section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

(f) STREAMLINED APPLICATION PROCESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the FAST Act, the Secretary shall make available an expedited application process or processes available at the request of entities seeking secured loans under the TIFIA program that use a set or sets of conventional terms established pursuant to this section.

(2) TERMS.—In establishing the streamlined application process required by this subsection, the Secretary may include terms commonly included in prior credit agreements and allow for an expedited application period, including—

(A) the secured loan is in an amount of not greater than $100,000,000;

(B) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge, tax increment financing, or a system-backed pledge of project revenues; and

(C) repayment of the loan commences not later than 5 years after disbursement.

(3) ADDITIONAL TERMS FOR EXPEDITED DECISIONS.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Secretary shall implement an expedited decision timeline for public agency borrowers seeking secured loans that meet—

(i) the terms under paragraph (2); and

(ii) the additional criteria described in subparagraph (B).

(B) ADDITIONAL CRITERIA.—The additional criteria referred to in subparagraph (A)(ii) are the following:

(i) The secured loan is made on terms and conditions that substantially conform to the conventional terms and conditions established by the National Surface Transportation Innovative Finance Bureau.

(ii) The secured loan is rated in the A category or higher.

(iii) The TIFIA program share of eligible project costs is 33 percent or less.

(iv) The applicant demonstrates a reasonable expectation that the contracting process for the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.

(v) The project has received a categorical exclusion, a finding of no significant impact, or a record of deci-

sion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) WRITTEN NOTICE.—The Secretary shall provide to an applicant seeking a secured loan under the expedited decision process under this paragraph a written notice informing the applicant whether the Secretary has approved or disapproved the application by not later than 180 days after the date on which the Secretary submits to the applicant a letter indicating that the National Surface Transportation Innovative Finance Bureau has commenced the creditworthiness review of the project.

* * * * * * *

§ 605. Program administration

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

(b) FEES.—The Secretary may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(1) the costs of services of expert firms retained pursuant to subsection (d); and

(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) SERVICER.—

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

(2) DUTIES.—A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

(3) FEE.—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

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

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

(f) ASSISTANCE TO SMALL PROJECTS.—

(1) RESERVATION OF FUNDS.—Of the funds made available to carry out the TIFIA program for each fiscal year, and after the set aside under section 608(a)(5), not less than ⟦$2,000,000⟧ *$3,000,000* shall be made available for the Secretary to use in lieu of fees collected under subsection (b) for projects under the TIFIA program having eligible project costs that are reasonably anticipated not to equal or exceed $75,000,000.

(2) RELEASE OF FUNDS.—Any funds not used under paragraph (1) in a fiscal year shall be made available on October

1 of the following fiscal year to provide credit assistance to any project under the TIFIA program.

* * * * * * *

§ 609. Reports to Congress

(a) IN GENERAL.—On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under the TIFIA program, including a recommendation as to whether the objectives of the TIFIA program are best served by—

(1) continuing the program under the authority of the Secretary;

(2) establishing a Federal corporation or federally sponsored enterprise to administer the program; or

(3) phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by the TIFIA program without Federal participation.

(b) APPLICATION PROCESS REPORT.—

(1) IN GENERAL.—Not later than December 1, 2012, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a list of all of the letters of interest and applications received from project sponsors for assistance under the TIFIA program during the preceding fiscal year.

(2) INCLUSIONS.—

(A) IN GENERAL.—Each report under paragraph (1) shall include, at a minimum, a description of, with respect to each letter of interest and application included in the report—

(i) the date on which the letter of interest or application was received;

(ii) the date on which a notification was provided to the project sponsor regarding whether the application was complete or incomplete;

(iii) the date on which a revised and completed application was submitted (if applicable);

(iv) the date on which a notification was provided to the project sponsor regarding whether the project was approved or disapproved; **[**and**]**

(v) if the project was not approved, the reason for the disapproval**[**.**]***; and*

(vi) whether the project is located in a metropolitan statistical area, micropolitan statistical area, or neither (as such areas are defined by the Office of Management and Budget).

(B) CORRESPONDENCE.—Each report under paragraph (1) shall include copies of any correspondence provided to the project sponsor in accordance with section 602(d).

(c) STATUS REPORTS.—

(1) IN GENERAL.—The Secretary shall publish on the website for the TIFIA program—

(A) on a monthly basis, a current status report on all submitted letters of interest and applications received for assistance under the TIFIA program; and

(B) on a quarterly basis, a current status report on all approved applications for assistance under the TIFIA program.

(2) INCLUSIONS.—Each monthly and quarterly status report under paragraph (1) shall include, at a minimum, with respect to each project included in the status report—

(A) the name of the party submitting the letter of interest or application;

(B) the name of the project;

(C) the date on which the letter of interest or application was received;

(D) the estimated project eligible costs;

(E) the type of credit assistance sought; and

(F) the anticipated fiscal year and quarter for closing of the credit assistance.

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TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

Sec.
101. Purpose.
* * * * * * *
118. Nontraditional and Emerging Transportation Technology Council.
* * * * * * *

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant.

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has [6 Assistant] *7 Assistant* Secretaries and a General Counsel, including—

(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, an Assistant Secretary for Research and Technology, and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President[; and]*;*

(D) an Assistant Secretary for Tribal Government Affairs, who shall be appointed by the President; and

[(D)] *(E)* a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

(f) [DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS] *OFFICE OF TRIBAL GOVERNMENT AFFAIRS.*—

[(1) ESTABLISHMENT.—In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.]

(1) ESTABLISHMENT.—There is established in the Department an Office of Tribal Government Affairs, under the Assistant Secretary for Tribal Government Affairs, to—

(A) oversee the Tribal transportation self-governance program under section 207 of title 23;

(B) plan, coordinate, and implement policies and programs serving Indian Tribes and Tribal organizations;

(C) coordinate Tribal transportation programs and activities in all offices and administrations of the Department;

(D) provide technical assistance to Indian Tribes and Tribal organizations; and

(E) be a participant in any negotiated rulemakings relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program under section 202 of title 23.

(2) RESERVATION OF TRUST OBLIGATIONS.—

(A) RESPONSIBILITY OF SECRETARY.—In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and Indian tribes to ensure that the rights of a tribe or individual Indian are protected.

(B) PRESERVATION OF UNITED STATES RESPONSIBILITY.—Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian tribe.

(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

(1) ESTABLISHMENT.—There is established in the Department an Office of Climate Change and Environment to plan, coordinate, and implement—

(A) department-wide research, strategies, and actions under the Department's statutory authority to reduce transportation-related energy use and mitigate the effects of climate change; and

(B) department-wide research strategies and actions to address the impacts of climate change on transportation systems and infrastructure.

(2) CLEARINGHOUSE.—The Office shall establish a clearinghouse of solutions, including cost-effective congestion reduction approaches, to reduce air pollution and transportation-related energy use and mitigate the effects of climate change.

(h) The Department shall have a seal that shall be judicially recognized.

* * * * * * *

§ 116. National Surface Transportation and Innovative Finance Bureau

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Surface Transportation and Innovative Finance Bureau in the Department.

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

[(1) to provide assistance and communicate best practices and financing and funding opportunities to eligible entities for the programs referred to in subsection (d)(1);]

(1) to provide assistance and communicate best practices and financing and funding opportunities to eligible entities for the programs referred to in subsection (d)(1), including by—

(A) conducting proactive outreach to communities located outside of metropolitan or micropolitan statistical areas (as such areas are defined by the Office of Management and Budget) using data from the most recent decennial Census; and

(B) coordinating with the Office of Rural Development of the Department of Agriculture, the Office of Community Revitalization of the Environmental Protection Agency, and any other agencies that provide technical assistance for rural communities, as determined by the Executive Director;

(2) to administer the application processes for programs within the Department in accordance with subsection (d);

(3) to promote innovative financing best practices in accordance with subsection (e);

(4) to reduce uncertainty and delays with respect to environmental reviews and permitting in accordance with subsection (f); and

(5) to reduce costs and risks to taxpayers in project delivery and procurement in accordance with subsection (g).

(c) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by an Executive Director, who shall be appointed in the competitive service by the Secretary, with the approval of the President.

(2) DUTIES.—The Executive Director shall—

(A) report to the Under Secretary of Transportation for Policy;

(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Bureau;

(C) support the Council on Credit and Finance established under section 117 in accordance with this section; and

(D) carry out such additional duties as the Secretary may prescribe.

(d) ADMINISTRATION OF CERTAIN APPLICATION PROCESSES.—

(1) IN GENERAL.—The Bureau shall administer the application processes for the following programs:

(A) The infrastructure finance programs authorized under chapter 6 of title 23.

(B) The railroad rehabilitation and improvement financing program authorized under sections 501 through 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821–823).

(C) Amount allocations authorized under section 142(m) of the Internal Revenue Code of 1986.

(D) The nationally significant freight and highway projects program under section 117 of title 23.

(2) CONGRESSIONAL NOTIFICATION.—The Executive Director shall ensure that the congressional notification requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.

(3) REPORTS.—The Executive Director shall ensure that the reporting requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.

(4) COORDINATION.—In administering the application processes for the programs referred to in paragraph (1), the Executive Director shall coordinate with appropriate officials in the Department and its modal administrations responsible for administering such programs.

(5) STREAMLINING APPROVAL PROCESSES.—Not later than 1 year after the date of enactment of this section, the Executive Director shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Environment and Public Works of the Senate a report that—

(A) evaluates the application processes for the programs referred to in paragraph (1);

(B) identifies administrative and legislative actions that would improve the efficiency of the application processes without diminishing Federal oversight; and

(C) describes how the Executive Director will implement administrative actions identified under subparagraph (B) that do not require an Act of Congress.

(6) PROCEDURES AND TRANSPARENCY.—

(A) PROCEDURES.—With respect to the programs referred to in paragraph (1), the Executive Director shall—

(i) establish procedures for analyzing and evaluating applications and for utilizing the recommendations of the Council on Credit and Finance;

(ii) establish procedures for addressing late-arriving applications, as applicable, and communicating the Bureau's decisions for accepting or rejecting late applications to the applicant and the public; and

(iii) document major decisions in the application evaluation process through a decision memorandum or similar mechanism that provides a clear rationale for such decisions.

(B) REVIEW.—

(i) IN GENERAL.—The Comptroller General of the United States shall review the compliance of the Executive Director with the requirements of this paragraph.

(ii) RECOMMENDATIONS.—The Comptroller General may make recommendations to the Executive Director

in order to improve compliance with the requirements of this paragraph.

(iii) REPORT.—Not later than 3 years after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under clause (i), including findings and recommendations for improvement.

(e) INNOVATIVE FINANCING BEST PRACTICES.—

(1) IN GENERAL.—The Bureau shall work with the modal administrations within the Department, eligible entities, and other public and private interests to develop and promote best practices for innovative financing and public-private partnerships.

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by making Federal credit assistance programs more accessible to eligible recipients;

(B) by providing advice and expertise to eligible entities that seek to leverage public and private funding;

(C) by sharing innovative financing best practices and case studies from eligible entities with other eligible entities that are interested in utilizing innovative financing methods; and

(D) by developing and monitoring—

(i) best practices with respect to standardized State public-private partnership authorities and practices, including best practices related to—

(I) accurate and reliable assumptions for analyzing public-private partnership procurements;

(II) procedures for the handling of unsolicited bids;

(III) policies with respect to noncompete clauses; and

(IV) other significant terms of public-private partnership procurements, as determined appropriate by the Bureau;

(ii) standard contracts for the most common types of public-private partnerships for transportation facilities; and

(iii) analytical tools and other techniques to aid eligible entities in determining the appropriate project delivery model, including a value for money analysis.

(3) TRANSPARENCY.—The Bureau shall—

(A) ensure the transparency of a project receiving credit assistance under a program referred to in subsection (d)(1) and procured as a public-private partnership by—

(i) requiring the sponsor of the project to undergo a value for money analysis or a comparable analysis prior to deciding to advance the project as a public-private partnership;

(ii) requiring the analysis required under subparagraph (A), and other key terms of the relevant public-private partnership agreement, to be made publicly available by the project sponsor at an appropriate time;

(iii) not later than 3 years after the date of completion of the project, requiring the sponsor of the project to conduct a review regarding whether the private partner is meeting the terms of the relevant public-private partnership agreement; and

(iv) providing a publicly available summary of the total level of Federal assistance in such project; and

(B) develop guidance to implement this paragraph that takes into consideration variations in State and local laws and requirements related to public-private partnerships.

(4) SUPPORT TO PROJECT SPONSORS.—At the request of an eligible entity, the Bureau shall provide technical assistance to the eligible entity regarding proposed public-private partnership agreements for transportation facilities, including assistance in performing a value for money analysis or comparable analysis.

(f) ENVIRONMENTAL REVIEW AND PERMITTING.—

(1) IN GENERAL.—The Bureau shall take actions that are appropriate and consistent with the Department's goals and policies to improve the delivery timelines for projects carried out under the programs referred to in subsection (d)(1).

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by serving as the Department's liaison to the Council on Environmental Quality;

(B) by coordinating efforts to improve the efficiency and effectiveness of the environmental review and permitting process;

(C) by providing technical assistance and training to field and headquarters staff of Federal agencies on policy changes and innovative approaches to the delivery of projects; and

(D) by identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969.

(3) SUPPORT TO PROJECT SPONSORS.—At the request of an eligible entity that is carrying out a project under a program referred to in subsection (d)(1), the Bureau, in coordination with the appropriate modal administrations within the Department, shall provide technical assistance with regard to the compliance of the project with the requirements of the National Environmental Policy Act 1969 and relevant Federal environmental permits.

(g) PROJECT PROCUREMENT.—

(1) IN GENERAL.—The Bureau shall promote best practices in procurement for a project receiving assistance under a program referred to in subsection (d)(1) by developing, in coordination with modal administrations within the Department as appropriate, procurement benchmarks in order to ensure accountable expenditure of Federal assistance over the life cycle of the project.

(2) PROCUREMENT BENCHMARKS.—To the maximum extent practicable, the procurement benchmarks developed under paragraph (1) shall—

(A) establish maximum thresholds for acceptable project cost increases and delays in project delivery;

(B) establish uniform methods for States to measure cost and delivery changes over the life cycle of a project; and

(C) be tailored, as necessary, to various types of project procurements, including design-bid-build, design-build, and public-private partnerships.

(3) DATA COLLECTION.—The Bureau shall—

(A) collect information related to procurement benchmarks developed under paragraph (1), including project specific information detailed under paragraph (2); and

(B) provide on a publicly accessible Internet Web site of the Department a report on the information collected under subparagraph (A).

(h) ELIMINATION AND CONSOLIDATION OF DUPLICATIVE OFFICES.—

(1) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that—

(A) the purposes of the office are duplicative of the purposes of the Bureau; and

(B) the elimination of the office does not adversely affect the obligations of the Secretary under any Federal law.

(2) CONSOLIDATION OF OFFICES AND OFFICE FUNCTIONS.—The Secretary may consolidate any office or office function within the Department into the Bureau that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Bureau.

(3) STAFFING AND BUDGETARY RESOURCES.—

(A) IN GENERAL.—The Secretary shall ensure that the Bureau is adequately staffed and funded.

(B) STAFFING.—The Secretary may transfer to the Bureau a position within the Department from any office that is eliminated or consolidated under this subsection if the Secretary determines that the position is necessary to carry out the purposes of the Bureau.

(C) SAVINGS PROVISION.—If the Secretary transfers a position to the Bureau under subparagraph (B), the Secretary, in coordination with the appropriate modal administration, shall ensure that the transfer of the position

does not adversely affect the obligations of the modal administration under any Federal law.

(D) BUDGETARY RESOURCES.—

(i) TRANSFER OF FUNDS FROM ELIMINATED OR CONSOLIDATED OFFICES.—The Secretary may transfer to the Bureau funds allocated to any office or office function that is eliminated or consolidated under this subsection to carry out the purposes of the Bureau. Any such funds or limitation of obligations or portions thereof transferred to the Bureau may be transferred back to and merged with the original account.

(ii) TRANSFER OF FUNDS ALLOCATED TO ADMINISTRATIVE COSTS.—The Secretary may transfer to the Bureau funds allocated to the administrative costs of processing applications for the programs referred to in subsection (d)(1). Any such funds or limitation of obligations or portions thereof transferred to the Bureau may be transferred back to and merged with the original account.

(4) NOTIFICATION.—Not later than 90 days after the date of enactment of this section, and every 90 days thereafter, the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate of—

(A) the offices eliminated under paragraph (1) and the rationale for elimination of the offices;

(B) the offices and office functions consolidated under paragraph (2) and the rationale for consolidation of the offices and office functions;

(C) the actions taken under paragraph (3) and the rationale for taking such actions; and

(D) any additional legislative actions that may be needed.

(i) SAVINGS PROVISIONS.—

(1) LAWS AND REGULATIONS.—Nothing in this section may be construed to change a law or regulation with respect to a program referred to in subsection (d)(1).

(2) RESPONSIBILITIES.—Nothing in this section may be construed to abrogate the responsibilities of an agency, operating administration, or office within the Department otherwise charged by a law or regulation with other aspects of program administration, oversight, or project approval or implementation for the programs and projects subject to this section.

(3) APPLICABILITY.—Nothing in this section may be construed to affect any pending application under 1 or more of the programs referred to in subsection (d)(1) that was received by the Secretary on or before the date of enactment of this section.

(j) ANNUAL PROGRESS REPORT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Executive Director shall submit to the Committee on Transportation

and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report detailing—

(1) the use of funds authorized under section 605(f) of title 23; and

(2) the progress of the Bureau in carrying out the purposes described in subsection (b).

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

(1) BUREAU.—The term "Bureau" means the National Surface Transportation and Innovative Finance Bureau of the Department.

(2) DEPARTMENT.—The term "Department" means the Department of Transportation.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means an eligible applicant receiving financial or credit assistance under 1 or more of the programs referred to in subsection (d)(1).

(4) EXECUTIVE DIRECTOR.—The term "Executive Director" means the Executive Director of the Bureau.

(5) MULTIMODAL PROJECT.—The term "multimodal project" means a project involving the participation of more than 1 modal administration or secretarial office within the Department.

(6) PROJECT.—The term "project" means a highway project, public transportation capital project, freight or passenger rail project, or multimodal project.

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§ 118. Nontraditional and Emerging Transportation Technology Council

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Nontraditional and Emerging Transportation Technology Council (hereinafter referred to as the "Council") in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of the following officers of the Department of Transportation:

(A) The Secretary of Transportation.

(B) The Deputy Secretary of Transportation.

(C) The Under Secretary of Transportation for Policy.

(D) The General Counsel of the Department of Transportation.

(E) The Chief Information Officer of the Department of Transportation.

(F) The Assistant Secretary for Research and Technology.

(G) The Assistant Secretary for Budget and Programs.

(H) The Administrator of the Federal Aviation Administration.

(I) The Administrator of the Federal Highway Administration.

(J) The Administrator of the Federal Motor Carrier Safety Administration.

(K) The Administrator of the Federal Railroad Administration.

(L) The Administrator of the Federal Transit Administration.

(M) The Administrator of the Federal Maritime Administration.

(N) The Administrator of the National Highway Traffic Safety Administration.

(O) The Administrator of the Pipeline and Hazardous Materials Safety Administration.

(2) ADDITIONAL MEMBERS.—The Secretary may designate additional members of the Department to serve as at-large members of the Council.

(3) CHAIR AND VICE CHAIR.—The Secretary may designate officials to serve as the Chair and Vice Chair of the Council and of any working groups of the Council.

(c) DUTIES.—The Council shall—

(1) identify and resolve any jurisdictional or regulatory gaps or inconsistencies associated with nontraditional and emerging transportation technologies, modes, or projects pending or brought before the Department to eliminate, so far as practicable, impediments to the prompt and safe deployment of new and innovative transportation technology, including with respect to safety regulation and oversight, environmental review, and funding issues;

(2) coordinate the Department's internal oversight of nontraditional and emerging transportation technologies, modes, or projects and engagement with external stakeholders;

(3) within applicable statutory authority other than this paragraph, develop and establish department-wide processes, solutions, and best practices for identifying, managing and resolving issues regarding emerging transportation technologies, modes, or projects pending or brought before the Department; and

(4) carry out such additional duties as the Secretary may prescribe, to the extent consistent with this title, including subsections (f)(2) and (g) of section 106.

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CHAPTER 3—GENERAL DUTIES AND POWERS

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SUBCHAPTER II—ADMINISTRATIVE

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§ 330. Research activities

(a) IN GENERAL.—The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological re-

search into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) RESPONSIBILITIES.—In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) PUBLICATIONS.—The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

(d) DUTIES.—The Secretary shall provide for the following:

(1) Coordination, facilitation, and review of Department of Transportation research and development programs and activities.

(2) Advancement, and research and development, of innovative technologies, including intelligent transportation systems.

(3) Comprehensive transportation statistics research, analysis, and reporting.

(4) Education and training in transportation and transportation-related fields.

(5) Activities of the Volpe National Transportation Systems Center.

(6) Coordination in support of multimodal and multidisciplinary research activities.

(e) ADDITIONAL AUTHORITIES.—The Secretary may—

(1) enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons to conduct research into transportation service and infrastructure assurance and to carry out other research activities of the Department of Transportation;

(2) carry out, on a cost-shared basis, collaborative research and development to encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology with—

(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

(B) Federal laboratories; and

(C) other Federal agencies; and

(3) directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Academies, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of an activity carried out under subsection (e)(3) shall not exceed 50 percent.

(2) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(3) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subsection (e)(3).

(g) PROGRAM EVALUATION AND OVERSIGHT.—For [each of fiscal years 2016 through 2020] *each of fiscal years 2022 through 2025*, the Secretary is authorized to expend not more than 1 1/2 percent of the amounts authorized to be appropriated for the coordination, evaluation, and oversight of the programs administered by the Office of the Assistant Secretary for Research and Technology.

(h) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this section, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(i) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.

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SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

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CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

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§ 5107. Hazmat employee training requirements and grants

(a) TRAINING REQUIREMENTS.—The Secretary shall prescribe by regulation requirements for training that a hazmat employer must

give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of hazmat employees of the employer not later than 6 months after the Secretary prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary shall ensure that the training requirements prescribed under this section do not conflict with or duplicate—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazard communication, and hazardous

waste operations, and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(e) TRAINING GRANTS.—

(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

(A) for training instructors to train hazmat employees; and

(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

(2) ELIGIBILITY.—A grant under this subsection shall be made through a competitive process to a nonprofit organization that demonstrates—

(A) expertise in conducting a training program for hazmat employees; and

(B) the ability to reach and involve in a training program a target population of hazmat employees.

(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

(g) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(d) of this section.

(2) An action of the Secretary under subsections (a)–(d) of this section and section 5106 is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.

(i) COMMUNITY SAFETY GRANTS.—The Secretary shall establish a competitive program for making grants to nonprofit organizations for—

(1) conducting national outreach and training programs to assist communities in preparing for and responding to accidents and incidents involving the transportation of hazardous materials, including Class 3 flammable liquids by rail; and

(2) training State and local personnel responsible for enforcing the safe transportation of hazardous materials, including Class 3 flammable liquids.

(j) ASSISTANCE WITH LOCAL EMERGENCY RESPONDER TRAINING.—The Secretary shall make grants to nonprofit organizations to develop hazardous materials response training for emergency responders and make such training available electronically or in person.

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§ 5128. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

~~[~~(1) $53,000,000 for fiscal year 2016;
~~[~~(2) $55,000,000 for fiscal year 2017;
~~[~~(3) $57,000,000 for fiscal year 2018;
~~[~~(4) $58,000,000 for fiscal year 2019; and
~~[~~(5) $60,000,000 for fiscal year 2020.~~]~~
(1) $67,000,000 for fiscal year 2021;
(2) $68,000,000 for fiscal year 2022;
(3) $69,000,000 for fiscal year 2023;
(4) $71,000,000 for fiscal year 2024; and
(5) $72,000,000 for fiscal year 2025;

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(h), the Secretary may expend, for each of ~~[~~fiscal years 2016 through 2020~~]~~ *fiscal years 2021 through 2025*—

(1) ~~[~~$21,988,000~~]~~ *$24,025,000* to carry out section 5116(a);
(2) $150,000 to carry out section 5116(e);
(3) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and
(4) $1,000,000 to carry out section 5116(i).

(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend ~~[~~$4,000,000 for each of fiscal years 2016 through 2020~~]~~ *$5,000,000 for each of fiscal years 2021 through 2025* to carry out section 5107(e).

(d) COMMUNITY SAFETY GRANTS.—Of the amounts made available under subsection (a) to carry out this chapter, the Secretary shall withhold ~~[~~$1,000,000 for each of fiscal years 2016 through 2020~~]~~ *$4,000,000 for each of fiscal years 2021 through 2025* to carry out section 5107(i).

(e) ASSISTANCE WITH LOCAL EMERGENCY RESPONDER TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(h), the Secretary may expend $1,800,000 for each of fiscal years 2021 through 2025 to carry out the grant program under section 5107(j).

~~[~~(e)~~]~~ *(f)* CREDITS TO APPROPRIATIONS.—

(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, Indian tribe, authority, or entity.

(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.

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CHAPTER 53—PUBLIC TRANSPORTATION

§ 5301. Policies and purposes

(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems with the cooperation of both public transportation companies and private companies engaged in public transportation.

(b) GENERAL PURPOSES.—The purposes of this chapter are to—

(1) provide funding to support public transportation;

(2) improve the development and delivery of capital projects;

(3) establish standards for the state of good repair of public transportation infrastructure and vehicles;

(4) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

(5) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

(6) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

(7) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service**[**; and**]***;*

(8) promote the development of the public transportation workforce**[**.**]***;*

(9) reduce the contributions of the surface transportation system to the total carbon pollution of the United States; and

(10) improve the resiliency of the public transportation network to withstand weather events and other natural disasters.

§ 5302. Definitions

Except as otherwise specifically provided, in this chapter the following definitions apply:

(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term "associated transit improvement" means, with respect to any project or an area to be served by a project, projects that are designed

to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

(B) bus shelters;

(C) functional landscaping and streetscaping, including benches, trash receptacles, and street lights;

(D) pedestrian access and walkways;

(E) bicycle access, including bicycle storage shelters and parking facilities [and the installation], *the installation* of equipment for transporting bicycles on public transportation vehicles*, and bikeshare projects*;

(F) signage; or

(G) enhanced access for persons with disabilities to public transportation.

(2) BUS RAPID TRANSIT SYSTEM.—The term "bus rapid transit system" means a bus transit system—

(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

(3) CAPITAL PROJECT.—The term "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance;

(F) leasing equipment or a facility for use in public transportation;

(G) a joint development improvement that—

(i) enhances economic development or incorporates private investment, such as commercial and residential development;

(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

(II) establishes new or enhanced coordination between public transportation and other transportation;

[(iii) provides a fair share of revenue that will be used for public transportation;]

(iii) provides a fair share of revenue established by the Secretary that will be used for public transportation, except for a joint development that is a community service (as defined by the Federal Transit Administration), publicly operated facility, or offers a minimum of 50 percent of units as affordable housing, meaning legally binding affordability restricted housing units available to tenants with incomes below 60 percent of the area median income or owners with incomes below the area median;

(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means; and

(v) may include—

(I) property acquisition;

(II) demolition of existing structures;

(III) site preparation;

(IV) utilities;

(V) building foundations;

(VI) walkways;

(VII) pedestrian and bicycle access to a public transportation facility;

(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

(IX) renovation and improvement of historic transportation facilities;

(X) open space;

(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

(XII) facilities that incorporate community services such as daycare or health care;

(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

(XIV) construction of space for commercial uses;

(H) the introduction of new technology, through innovative and improved products, into public transportation;

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts—

(i) not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311; or

(ii) not to exceed 20 percent of such recipient's annual formula apportionment under sections 5307 and 5311, if, consistent with guidance issued by the Secretary, the recipient demonstrates that the recipient meets at least 2 of the following requirements:

(I) Provides an active fixed route travel training program that is available for riders with disabilities.

(II) Provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis.

(III) Has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.

(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

(K) mobility management—

(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

(ii) excluding operating public transportation services;

(L) associated capital maintenance, including—

(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling

stock for which the equipment and material will be used;

(M) associated transit improvements; or

(N) technological changes or innovations to modify low or [no emission] *zero emission* vehicles [(as defined in section 5339(c))] or facilities.

(4) DESIGNATED RECIPIENT.—The term "designated recipient" means—

(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

(5) DISABILITY.—The term "disability" has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(6) EMERGENCY REGULATION.—The term "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(7) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(8) GOVERNOR.—The term "Governor"—

(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

(B) includes the designee of the Governor.

(9) JOB ACCESS AND REVERSE COMMUTE PROJECT.—

(A) IN GENERAL.—The term "job access and reverse commute project" means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible

low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

(B) DEFINITIONS.—In this paragraph:

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

(ii) WELFARE RECIPIENT.—The term "welfare recipient" means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under section 5307 or 5311.

(10) LOCAL GOVERNMENTAL AUTHORITY.—The term "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least 1 State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

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

(12) NET PROJECT COST.—The term "net project cost" means the part of a project that reasonably cannot be financed from revenues.

(13) NEW BUS MODEL.—The term "new bus model" means a bus model (including a model using alternative fuel)—

(A) that has not been used in public transportation in the United States before the date of production of the model; or

(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

(14) PUBLIC TRANSPORTATION.—The term "public transportation"—

(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

(B) does not include—

(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

(ii) intercity bus service;

(iii) charter bus service;

(iv) school bus service;

(v) sightseeing service;

(vi) courtesy shuttle service for patrons of one or more specific establishments; or

(vii) intra-terminal or intra-facility shuttle services.

(15) REGULATION.—The term "regulation" means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

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

(17) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(18) SENIOR.—The term "senior" means an individual who is 65 years of age or older.

(19) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(20) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(21) TRANSIT.—The term "transit" means public transportation.

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

(23) URBANIZED AREA.—The term "urbanized area" means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

(24) VALUE CAPTURE.—The term "value capture" means recovering the increased property value to property located near public transportation resulting from investments in public transportation.

(25) RESILIENCE.—

(A) IN GENERAL.—The term "resilience" means, with respect to a facility, the ability to—

(i) anticipate, prepare for, or adapt to conditions; or

(ii) withstand, respond to, or recover rapidly from disruptions.

(B) INCLUSIONS.—Such term includes, with respect to a facility, the ability to—

(i) resist hazards or withstand impacts from disruptions;

(ii) reduce the magnitude, duration, or impact of a disruption; or

(iii) have the absorptive capacity, adaptive capacity, and recoverability to decrease vulnerability to a disruption.

(26) ASSAULT ON A TRANSIT WORKER.—The term "assault on a transit worker" means any circumstance in which an individual knowingly, without lawful authority or permission, and with intent to endanger the safety of any individual, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any transit worker while the transit worker is performing his or her duties.

§ 5303. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

[(1) to encourage and promote the safe and efficient management, operation, and development of resilient surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and]

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight, foster economic growth and development within and between States and urbanized areas, and take into consideration resiliency and climate change adaptation needs while reducing transportation-related fuel consumption, air pollution, and greenhouse gas emissions through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

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

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

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 5304(*l*).

(6) STIP.—The term "STIP" means a statewide transportation improvement program developed by a State under section 135(g).

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

[(7)**]** *(8)* URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(8) MAINTENANCE AREA.—The term "maintenance area" has the meaning given the term in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a).

(c) GENERAL REQUIREMENTS.—

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

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(4) CONSIDERATION.—In developing the plans and TIPs, metropolitan planning organizations shall consider direct and indirect emissions of greenhouse gases.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

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

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—**[**Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each**]** *Each* metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) CONSIDERATIONS.—

(i) EQUITABLE AND PROPORTIONAL REPRESENTATION.—In designating officials or representatives under paragraph (2), the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(ii) SAVINGS CLAUSE.—Nothing in this paragraph shall require a metropolitan planning organization in existence on the date of enactment of this subparagraph to be restructured.

(iii) REDESIGNATION.—Notwithstanding clause (ii), the requirements of this paragraph shall apply to any metropolitan planning organization redesignated under paragraph (6).

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the author-

ity, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

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

(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of ⟦paragraph (2)⟧ *paragraphs (2) or (3)(D)* without undertaking a redesignation.

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within ⟦an existing metropolitan planning area⟧ *an urbanized area* only if the Governor and the existing metropolitan planning organization determine that the size and complexity of ⟦the existing metropolitan planning area⟧ *the area* make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

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

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

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

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

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

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

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

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within ⟦a metropolitan area⟧ *an urbanized area* or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE [MPOS] *METROPOLITAN PLANNING AREAS*.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, tourism, natural disaster risk reduction, *emergency response and evacuation, climate change adaptation and resilience,* environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under this chapter;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204 of title 23.

(4) COORDINATION BETWEEN MPOS.—

(A) IN GENERAL.—If more than 1 metropolitan planning organization is designated within an urbanized area under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

(B) SAVINGS CLAUSE.—Nothing in this paragraph requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

[(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;]

(E) protect and enhance the environment, promote energy conservation, reduce greenhouse gas emissions, improve the quality of life and public health, and promote consistency between transportation improvements and State and local planned growth and economic development patterns, including housing and land use patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system; [and]

(I) improve the resiliency and reliability of the transportation system[.] *and reduce or mitigate stormwater, sea level rise, extreme weather, and climate change impacts of surface transportation;*

(J) facilitate emergency management, response, and evacuation and hazard mitigation;

(K) improve the level of transportation system access; and

(L) support inclusive zoning policies and land use planning practices that incentivize affordable, elastic, and diverse housing supply, facilitate long-term economic growth by improving the accessibility of housing to jobs, and prevent high housing costs from displacing economically disadvantaged households.

(2) PERFORMANCE-BASED APPROACH.—

[(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.]

(A) IN GENERAL.—Through the use of a performance-based approach, transportation investment decisions made as a part of the metropolitan transportation planning process shall support the national goals described in section 150(b), the achievement of metropolitan and statewide targets established under section 150(d), the improvement of transportation system access (consistent with section 150(f)), and the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

[(i) IN GENERAL.—**]** **[**The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:**]**

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

[(II)] [Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).]

[(ii) OTHER AREAS.—] [In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years] *The metropolitan planning organization shall prepare and update such plan every 4 years* unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and invest-

ments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to *reduce greenhouse gas emissions and* restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

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

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters *and climate change*.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities, including consideration of the role that intercity buses may play in reducing congestion, pollution, *greenhouse gas emissions,* and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(I) CLIMATE CHANGE AND RESILIENCE.—

(i) IN GENERAL.—The transportation planning process shall assess strategies to reduce the climate change impacts of the surface transportation system and conduct a vulnerability assessment to identify opportunities to enhance the resilience of the surface transportation system and ensure the efficient use of Federal resources.

(ii) CLIMATE CHANGE MITIGATION AND IMPACTS.—A long-range transportation plan shall—

(I) identify investments and strategies to reduce transportation-related sources of greenhouse gas emissions per capita;

(II) identify investments and strategies to manage transportation demand and increase the rates of public transportation ridership, walking, bicycling, and carpools; and

(III) recommend zoning and other land use policies that would support infill, transit-oriented development, and mixed use development.

(iii) VULNERABILITY ASSESSMENT.—A long-range transportation plan shall incorporate a vulnerability assessment that—

(I) includes a risk-based assessment of vulnerabilities of critical transportation assets and systems to covered events (as such term is defined in section 124 of title 23);

(II) considers, as applicable, the risk management analysis in the State's asset management plan developed pursuant to section 119 of title 23, and the State's evaluation of reasonable alternatives to repeatedly damaged facilities conducted under part 667 of title 23, Code of Federal Regulations;

(III) identifies evacuation routes, assesses the ability of any such routes to provide safe passage for evacuation and emergency response during an emergency event, and identifies any improvements or redundant facilities necessary to adequately facilitate safe passage;

(IV) describes the metropolitan planning organization's adaptation and resilience improvement strategies that will inform the transportation investment decisions of the metropolitan planning organization; and

(V) is consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165).

(iv) CONSULTATION.—The assessment described in this subparagraph shall be developed in consultation, as appropriate, with State, local, and Tribal officials

responsible for land use, housing, resilience, hazard mitigation, and emergency management.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vi) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

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

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

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

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

(B) ISSUES.—The consultation shall involve, as appropriate, comparison of transportation plans to other relevant plans, including, if available—

(i) State conservation plans or maps; and

(ii) inventories of natural or historic resources.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

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

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

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

[(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

[(i) hold any public meetings at convenient and accessible locations and times;

[(ii) employ visualization techniques to describe plans; and

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

(C) METHODS.—

(i) IN GENERAL.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(I) hold any public meetings at convenient and accessible locations and times;

(II) employ visualization techniques to describe plans; and

(III) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford rea-

sonable opportunity for consideration of public information under subparagraph (A).

(ii) ADDITIONAL METHODS.—In addition to the methods described in clause (i), in carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(I) use virtual public involvement, social media, and other web-based tools to encourage public participation and solicit public feedback; and

(II) use other methods, as appropriate, to further encourage public participation of historically underrepresented individuals in the transportation planning process.

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

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

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

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

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

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

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

(i) updated at least once every 4 years; and

(ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed [Federally] *federally* supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

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

(i) demonstrates how the TIP can be implemented;

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

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

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

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) [PERFORMANCE TARGET ACHIEVEMENT] *PERFORMANCE MANAGEMENT*.—[The transportation improvement program]

(i) IN GENERAL.—The TIP shall include, to the maximum extent practicable, a description of the anticipated effect of the [transportation improvement program] *TIP* toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(ii) TRANSPORTATION MANAGEMENT AREAS.—For metropolitan planning areas that represent an urbanized area designated as a transportation management area under subsection (k), the TIP shall include—

(I) a discussion of the anticipated effect of the TIP toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to such performance targets; and

(II) a description of how the TIP would improve the overall level of transportation system access, consistent with section 150(f) of title 23.

(3) INCLUDED PROJECTS.—

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

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the [transportation improvement program] *TIP*.

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

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

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

(E) RESILIENCE PROJECTS.—The TIP shall—

(i) identify projects that address the vulnerabilities identified by the assessment in subsection (i)(2)(I)(iii); and

(ii) describe how each project identified under clause (i) would improve the resilience of the transportation system.

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

(5) SELECTION OF PROJECTS.—

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

(i) by—

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

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

(ii) in cooperation with the metropolitan planning organization.

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

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

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

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

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

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section ❲shall address congestion management❳ *shall address*—

(i) congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction (including intercity bus operators, employer-

based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies[.]*; and*

(ii) the overall level of transportation system access for various modes of travel within the metropolitan planning area, including the level of access for economically disadvantaged communities, consistent with section 150(f) of title 23, that is based on a cooperatively developed and implemented metropolitan-wide strategy, assessing both new and existing transportation facilities eligible for funding under this chapter and title 23.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and non-profit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All [Federally] *federally* funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan plan-

ning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law**[**; and**]***;*

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

(iii) the TIP approved under clause (ii) improves the level of transportation system access, consistent with section 150(f) of title 23.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than **[**5 years after the date of enactment of the Federal Public Transportation Act of 2012**]** *2 years after the date of enactment of the INVEST in America*

Act, and every 2 years thereafter,, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section **[**and whether metropolitan planning organizations are developing meaningful performance targets; and**]***;*

[(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the requirements of this section.**]**

(D) a listing of all metropolitan planning organizations that are establishing performance targets and whether such performance targets established by the metropolitan planning organization are meaningful or regressive (as defined in section 150(d)(3)(B) of title 23); and

(E) the progress of implementing the measure established under section 150(f) of title 23 and related requirements under this section and section 135 of title 23.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

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

(p) FUNDING.—Funds apportioned under [section 104(b)(5)] *section 104(b)(6)* of title 23 or section 5305(g) shall be available to carry out this section.

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

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term "Bi-State Metropolitan Planning Organization" has the meaning given the term "region" in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96–551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State Metropolitan Planning Organization shall be treated as—

(A) a metropolitan planning organization;

(B) a transportation management area under subsection (k); and

(C) an urbanized area, which is comprised of a population of 145,000 and 25 square miles of land area and 25 square miles of land area in the State of California and a population of 65,000 and 12 square miles of land area and 12 square miles of land area in the State of Nevada.

§ 5304. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

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

(2) CONTENTS.—[The statewide transportation plan and the]

(A) IN GENERAL.—The statewide transportation plan and the [transportation improvement program] *STIP* developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedes-

trian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(B) CONSIDERATION.—In developing the statewide transportation plans and STIPs, States shall consider direct and indirect emissions of greenhouse gases.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the **[**transportation improvement program**]** *STIP* shall provide for consideration of all modes of transportation and the policies stated in section 5303(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

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

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, *reduce greenhouse gas emissions,* improve the quality of life *and public health*, and promote consistency between transportation improvements and State and local planned growth and economic development patterns*, including housing and land use patterns*;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system; [and]

(I) improve the resiliency and reliability of the transportation system[.] *and reduce or mitigate stormwater, sea level rise, extreme weather, and climate change impacts of surface transportation;*

(J) facilitate emergency management, response, and evacuation and hazard mitigation;

(K) improve the level of transportation system access; and

(L) support inclusive zoning policies and land use planning practices that incentivize affordable, elastic, and diverse housing supply, facilitate long-term economic growth by improving the accessibility of housing to jobs, and prevent high housing costs from displacing economically disadvantaged households.

(2) PERFORMANCE-BASED APPROACH.—

[(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.]

(A) IN GENERAL.—Through the use of a performance-based approach, transportation investment decisions made as a part of the statewide transportation planning process shall support—

(i) the national goals described in section 150(b);

(ii) the consideration of transportation system access (consistent with section 150(f));

(iii) the achievement of statewide targets established under section 150(c); and

(iv) the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress to-

wards attainment of critical outcomes for the State.

(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to title 23 by providers of public transportation in areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program.

(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and **[**statewide transportation improvement program**]** *STIP*.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a **[**statewide transportation improvement program**]** *STIP*, a project or strategy, or the certification of a planning process.

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

(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l);

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

(3) consider coordination of transportation plans, the **[**transportation improvement program**]** *STIP*, and planning

activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (*l*).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

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

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, *air quality, public health, housing, transportation, resilience, hazard mitigation, emergency management,* and historic preservation.

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

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve the comparison of transportation plans to other relevant plans and inventories, including, if available—

(I) State and tribal conservation plans or maps; and

(II) inventories of natural or historic resources.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

(i) nonmetropolitan local elected officials, or, if applicable, through regional transportation planning organizations described in subsection (*l*), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cashout program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—**[**In carrying out**]**

(i) IN GENERAL.—in carrying out subparagraph (A), the State shall, to the maximum extent practicable—

[(i)**]** *(I)* develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

[(ii)**]** *(II)* hold any public meetings at convenient and accessible locations and times;

[(iii)**]** *(III)* employ visualization techniques to describe plans; and

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

(ii) ADDITIONAL METHODS.—In addition to the methods described in clause (i), in carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(I) use virtual public involvement, social media, and other web-based tools to encourage public participation and solicit public feedback; and

(II) use other methods, as appropriate, to further encourage public participation of historically underrepresented individuals in the transportation planning process.

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these ac-

tivities, including activities that may have the greatest potential to *reduce greenhouse gas emissions and* restore and maintain the environmental functions affected by the plan.

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

(5) FINANCIAL PLAN.—The statewide transportation plan may include—

(A) a financial plan that—

(i) demonstrates how the adopted statewide transportation plan can be implemented;

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

(iii) recommends any additional financing strategies for needed projects and programs; and

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

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan should include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system *including consideration of the role that intercity buses may play in reducing congestion, pollution, greenhouse gas emissions, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated*.

(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(10) CLIMATE CHANGE AND RESILIENCE.—

(A) IN GENERAL.—The transportation planning process shall assess strategies to reduce the climate change impacts of the surface transportation system and conduct a vulnerability assessment to identify opportunities to enhance the resilience of the surface transportation system and ensure the efficient use of Federal resources.

(B) CLIMATE CHANGE MITIGATION AND IMPACTS.—A long-range transportation plan shall—

(i) identify investments and strategies to reduce transportation-related sources of greenhouse gas emissions per capita;

(ii) identify investments and strategies to manage transportation demand and increase the rates of public transportation ridership, walking, bicycling, and carpools; and

(iii) recommend zoning and other land use policies that would support infill, transit-oriented development, and mixed use development.

(C) VULNERABILITY ASSESSMENT.—A long-range transportation plan shall incorporate a vulnerability assessment that—

(i) includes a risk-based assessment of vulnerabilities of critical transportation assets and systems to covered events (as such term is defined in section 124 of title 23);

(ii) considers, as applicable, the risk management analysis in the State's asset management plan developed pursuant to section 119 of title 23, and the State's evaluation of reasonable alternatives to repeatedly damaged facilities conducted under part 667 of title 23, Code of Federal Regulations;

(iii) identifies evacuation routes, assesses the ability of any such routes to provide safe passage for evacuation and emergency response during an emergency event, and identifies any improvements or redundant facilities necessary to adequately facilitate safe passage;

(iv) describes the State's adaptation and resilience improvement strategies that will inform the transportation investment decisions of the State; and

(v) is consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165).

(D) CONSULTATION.—The assessment described in this subparagraph shall be developed in consultation with, as appropriate, State, local, and Tribal officials responsible for land use, housing, resilience, hazard mitigation, and emergency management.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—Each State shall develop a [statewide transportation improvement program] *STIP* for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (*l*).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the specific consultation process in the State.

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

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) [PERFORMANCE TARGET ACHIEVEMENT] *PERFORMANCE MANAGEMENT*.—A [statewide transportation improvement program] *STIP* [shall include, to the maximum extent practicable, a discussion] *shall include*

(A) a discussion of the anticipated effect of the [statewide transportation improvement program] *STIP* toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets[.]*; and*

(B) a consideration of how the STIP impacts the overall level of transportation system access, consistent with section 150(f) of title 23.

(5) INCLUDED PROJECTS.—

(A) IN GENERAL.—A [transportation improvement program] *STIP* developed under this subsection for a State

shall include Federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) shall be consistent with the funding categories identified in each **[**metropolitan transportation improvement program**]** *TIP*.

(iii) RESILIENCE PROJECTS.—The STIP shall—

(I) identify projects that address the vulnerabilities identified by the assessment in subsection (i)(10)(B); and

(II) describe how each project identified under subclause (I) would improve the resilience of the transportation system.

(C) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the **[**transportation improvement program**]** *STIP*.

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

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

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

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

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

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

(F) FINANCIAL PLAN.—

(i) IN GENERAL.—The **[**transportation improvement program**]** *STIP* may include a financial plan

that demonstrates how the approved [transportation improvement program] *STIP* can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the [transportation improvement program] *STIP*, and recommends any additional financing strategies for needed projects and programs.

(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

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

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

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

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved [transportation improvement program] *STIP* (excluding projects carried out on the National Highway System [and projects carried out under the bridge program or the Interstate maintenance program under title 23] or under sections 5310 and 5311 of this chapter), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (*l*).

(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System [or under the bridge program or the Interstate maintenance program] under title 23 or under sections 5310 and 5311 of this chapter shall be selected, from the approved [statewide transportation improvement program] *STIP*, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

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

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

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

(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—[Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012,] *Not less frequently than once every 4 years,* the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this this section and section 5303, and sections 134 and 135 of title 23, if

the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 5303, and sections 134 and 135 of title 23, as appropriate.

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

(k) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(l) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and [transportation improvement programs] *STIPs*, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) STRUCTURE.—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to

provide professional planning, management, and administrative support.

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

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

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

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

(D) providing technical assistance to local officials;

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

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

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

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

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

* * * * * * *

§ 5307. Urbanized area formula grants

(a) GENERAL AUTHORITY.—

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

(A) capital projects;

(B) planning;

(C) job access and reverse commute projects; and

(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

(2) The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

(A) for public transportation systems that—

(i) operate 75 or fewer buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service

hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; [or]

(ii) operate a minimum of 76 buses and a maximum of 100 buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; or

(iii) operate a minimum of 101 buses and a maximum of 125 buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; or

(B) subject to paragraph (3), for public transportation systems that—

(i) operate 75 or fewer buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment allocated to such systems within the urbanized area, as determined by the local planning process and included in the designated recipient's final program of projects prepared under subsection (b); [or]

(ii) operate a minimum of 76 buses and a maximum of 100 buses in fixed route service or demand response service, excluding ADA complementary paratransit [service during peak] *service, during peak* service hours, in an amount not to exceed 50 percent of the share of the apportionment allocated to such systems within the urbanized area, as determined by the local planning process and included in the designated recipient's final program of projects prepared under subsection (b)[.]*; or*

(iii) operate a minimum of 101 buses and a maximum of 125 buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment allocated to such systems within the urbanized area, as determined by the local planning process and included in the designated recipient's final program of projects prepared under subsection (b).

(3) The amount available to a public transportation system under subparagraph (B) of paragraph (2) shall be not more than 10 percent greater than the amount that would otherwise

be available to the system under subparagraph (A) of that paragraph.

(b) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; ⟦and⟧

(7) ensure that the proposed program of projects provides improved access to transit for the individuals described in section 5336(j); and

⟦(7)⟧ *(8)* make the final program of projects available to the public.

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

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

(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities in accordance with the recipient's transit asset management plan;

(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

(i) senior;

(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation

service or a public transportation facility effectively without special facilities, planning, or design; and

(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

(E) in carrying out a procurement under this section, will comply with sections 5323*, 5320,* and 5325;

(F) has complied with subsection (b) of this section;

(G) has available and will provide the required amounts as provided by subsection (d) of this section;

(H) will comply with sections 5303 and 5304;

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

(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary;

(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in section 5302; and

(L) will comply with section 5329(d); and

(2) the Secretary accepts the certification.

(d) GOVERNMENT SHARE OF COSTS.—

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

(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

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

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

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

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

(E) from amounts received under a service agreement with a State or local social service agency or private social service organization**[**.**]***; and*

(F) transportation development credits.

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

(e) UNDERTAKING PROJECTS IN ADVANCE.—

(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

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

(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) FINANCING COSTS.—

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

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

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

(f) REVIEWS, AUDITS, AND EVALUATIONS.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (c) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (c) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(g) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

(h) PASSENGER FERRY GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

(4) ZERO-EMISSION OR REDUCED-EMISSION GRANTS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "eligible project" means a project or program of projects in an area eligible for a grant under subsection (a) for—

(I) acquiring zero- or reduced-emission passenger ferries;

(II) leasing zero- or reduced-emission passenger ferries;

(III) constructing facilities and related equipment for zero- or reduced-emission passenger ferries;

(IV) leasing facilities and related equipment for zero- or reduced-emission passenger ferries;

(V) constructing new public transportation facilities to accommodate zero- or reduced-emission passenger ferries;

(VI) constructing shoreside ferry charging infrastructure for zero- or reduced-emission passenger ferries; or

(VII) rehabilitating or improving existing public transportation facilities to accommodate zero- or reduced-emission passenger ferries;

(ii) the term "zero- or reduced-emission passenger ferry" means a passenger ferry used to provide public transportation that reduces emissions by utilizing onboard energy storage systems for hybrid-electric or 100 percent electric propulsion, related charging infrastructure, and other technologies deployed to reduce emissions or produce zero onboard emissions under normal operation; and

(iii) the term "recipient" means a designated recipient, a local government authority, or a State that receives a grant under subsection (a).

(B) GENERAL AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this paragraph.

(C) GRANT REQUIREMENTS.—A grant under this paragraph shall be subject to the same terms and conditions as a grant under subsection (a).

(D) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects under this paragraph on a competitive basis.

(E) GOVERNMENT SHARE OF COSTS.—

(i) IN GENERAL.—The Federal share of the cost of an eligible project carried out under this paragraph shall not exceed 80 percent.

(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an eligible project carried out under this subsection may be derived from in-kind contributions.

SEC. 5308. Multi-jurisdictional bus frequency and ridership competitive grants

(a) IN GENERAL.—The Secretary shall make grants under this section, on a competitive basis, to eligible recipients to increase the frequency and ridership of public transit buses.

(b) APPLICATIONS.—To be eligible for a grant under this section, an eligible recipient shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) APPLICATION TIMING.—Not later than 90 days after amounts are made available to carry out this section, the Secretary shall so-

licit grant applications from eligible recipients for projects described in subsection (d).

(d) USES OF FUNDS.—An eligible recipient of a grant under this section shall use such grant for capital projects that—

(1) increase—

(A) the frequency of bus service;

(B) bus ridership; and

(C) total person throughput; and

(2) are consistent with, and as described in, the design guidance issued by the National Association of City Transportation Officials and titled "Transit Street Design Guide".

(e) GRANT CRITERIA.—In making grants under this section, the Secretary shall consider the following:

(1) Each eligible recipient's projected increase in bus frequency.

(2) Each eligible recipient's projected increase in bus ridership.

(3) Each eligible recipient's projected increase in total person throughput.

(4) The degree of regional collaboration described in each eligible recipient's application, including collaboration with—

(A) a local government entity that operates a public transportation service;

(B) local government agencies that control street design;

(C) metropolitan planning organizations (as such term is defined in section 5303); and

(D) State departments of transportation.

(f) GRANT TIMING.—The Secretary shall award grants under this section not later than 120 days after the date on which the Secretary completes the solicitation described in subsection (c).

(g) REQUIREMENTS OF THE SECRETARY.—In carrying out the program under this section, the Secretary shall—

(1) not later than the date described in subsection (c), publish in the Federal Register a list of all metrics and evaluation procedures to be used in making grants under this section; and

(2) publish in the Federal Register—

(A) a summary of the final metrics and evaluations used in making grants under this section; and

(B) a list of the ratings of eligible recipients receiving a grant under this section based on such metrics and evaluations.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of a project carried out under this section shall not exceed 80 percent.

(2) RESTRICTION ON GRANT AMOUNTS.—The Secretary may make a grant for a project under this section in an amount up to 150 percent of the amount—

(A) provided for such project under title 23; and

(B) provided for such project from non-Federal funds budgeted for roadways.

(i) REQUIREMENTS OF SECTION 5307.—Except as otherwise provided in this section, a grant under this section shall be subject to the requirements of section 5307.

(j) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section shall remain available for 4 fiscal years after the fiscal year for which the amount was made available.

(2) UNOBLIGATED AMOUNTS.—After the expiration of the period described in paragraph (1) for an amount made available to carry out this section, any unobligated amounts made available to carry out this section shall be added to the amounts made available for the following fiscal year.

(k) ELIGIBLE RECIPIENTS.—In this section, the term "eligible recipient" means a recipient of a grant under section 5307 in an urbanized area with a population greater than 500,000.

§ 5309. Fixed guideway capital investment grants

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

(1) APPLICANT.—The term "applicant" means a State or local governmental authority that applies for a grant under this section.

(2) CORE CAPACITY IMPROVEMENT PROJECT.—The term "core capacity improvement project" means a substantial corridor-based capital investment in an existing fixed guideway system that increases the capacity of a corridor by not less than 10 percent. The term does not include project elements designed to maintain a state of good repair of the existing fixed guideway system.

(3) CORRIDOR-BASED BUS RAPID TRANSIT PROJECT.—The term "corridor-based bus rapid transit project" means a small start project utilizing buses in which the project represents a substantial investment in a defined corridor as demonstrated by features that emulate the services provided by rail fixed guideway public transportation systems, including defined stations; traffic signal priority for public transportation vehicles; short headway bidirectional services for a substantial part of weekdays; and any other features the Secretary may determine support a long-term corridor investment, but the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.

(4) FIXED GUIDEWAY BUS RAPID TRANSIT PROJECT.—The term "fixed guideway bus rapid transit project" means a bus capital project—

(A) in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods;

(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

(5) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "new fixed guideway capital project" means—

(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

(B) a fixed guideway bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

[(6) PROGRAM OF INTERRELATED PROJECTS.—The term "program of interrelated projects" means the simultaneous development of—

[(A) 2 or more new fixed guideway capital projects, small start projects, or core capacity improvement projects; or

[(B) 2 or more projects that are any combination of new fixed guideway capital projects, small start projects, and core capacity improvement projects.**]**

[(7)**]** *(6)* SMALL START PROJECT.—The term "small start project" means a new fixed guideway capital project or corridor-based bus rapid transit project for which—

(A) the Federal assistance provided or to be provided under this section is less than **[**$100,000,000**]** *$320,000,000*; and

(B) the total estimated net capital cost is less than **[**$300,000,000**]** *$400,000,000*.

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

(1) new fixed guideway capital projects or small start projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, construction of infill stations, *expanding station capacity,* and such other capacity improvement projects as the Secretary determines are appropriate to increase the capacity of an existing fixed guideway system corridor by at least 10 percent. Core capacity improvement projects do not include elements to im-

prove general station facilities or parking, or acquisition of rolling stock alone.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that—

(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

(B) the applicant has, or will have—

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

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

(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

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

(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new fixed guideway capital project, or core capacity improvement project, if—

(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

(d) NEW FIXED GUIDEWAY GRANTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the new fixed guideway capital project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than [2 years] *3 years* after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(D) OPTIONAL PROJECT DEVELOPMENT ACTIVITIES.—An applicant may perform cost and schedule risk assessments with technical assistance provided by the Secretary.

(E) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require cost and schedule risk assessments in the project development phase.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the

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

(ii) is adopted into the metropolitan transportation plan required under section 5303;

(iii) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic development effects associated with the project, policies and land use patterns of the project that support public transportation, and the project's cost-effectiveness as measured by cost per rider; and

(iv) is supported by [an acceptable degree of] *a* local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

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

(ii) population density and current public transportation ridership in the transportation corridor.

(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the core capacity improvement project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient

information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than [2 years] *3 years* after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(D) OPTIONAL PROJECT DEVELOPMENT ACTIVITIES.—An applicant may perform cost and schedule risk assessments with technical assistance provided by the Secretary.

(E) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require cost and schedule risk assessments in the project development phase.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

(ii) is adopted into the metropolitan transportation plan required under section 5303;

(iii) is in a corridor that is—

(I) at or over capacity; or

(II) projected to be at or over capacity within the next [5 years] *10 years*;

(iv) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic development effects associated with the project, the capacity needs of the corridor, and the project's cost-effectiveness as measured by cost per rider; and

(v) is supported by [an acceptable degree of] *a* local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

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

(ii) whether the project will increase capacity at least 10 percent in a corridor;

(iii) whether the project will improve interconnectivity among existing systems; and

(iv) whether the project will improve environmental outcomes.

(f) FINANCING SOURCES.—

(1) REQUIREMENTS.—In determining whether a project is supported by [an acceptable degree of] *a* local financial commitment and shows evidence of stable and dependable financing sources for purposes of [subsection (d)(2)(A)(v)] *subsection (d)(2)(A)(iv)* or (e)(2)(A)(v), the Secretary shall require that—

(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

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

(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of [subsection (d)(2)(A)(v)] *subsection (d)(2)(A)(iv)* or (e)(2)(A)(v), the Secretary shall consider—

(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

(B) existing grant commitments;

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

(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; *and*

[(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project; and]

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

(3) COST-SHARE INCENTIVES.—For a project for which a lower CIG cost share is elected by the applicant under subsection (l)(1)(C), the Secretary shall apply the following requirements and considerations in lieu of paragraphs (1) and (2):

(A) REQUIREMENTS.—In determining whether a project is supported by local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(iv) or (e)(2)(A)(v), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the applicant determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

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

(iii) an applicant certifies that local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(iv) or (e)(2)(A)(v), the Secretary shall consider—

(i) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

(ii) existing grant commitments;

(iii) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

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

(3) TRANSPORTATION DEVELOPMENT CREDITS.—For purposes of assessments and determinations under this subsection or subsection (h), transportation development credits that are included as a source of local financing or match shall be treated the same as other sources of local financing.

(g) PROJECT ADVANCEMENT AND RATINGS.—

(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance

from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

(A) the project meets the applicable requirements under this section; and

(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

(2) RATINGS.—

(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), and the **[**degree of local financial commitment**]** *criteria in subsection (f)*; and

(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the **[**degree of local financial commitment**]** *criteria in subsection (f)*.

(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable**[**; and**]***;*

(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i)**[**.**]***; and*

(iii) in the case of a new fixed guideway capital project or a core capacity improvement project, allow a weighting five points greater to the economic development subfactor and five points lesser to the lowest scoring subfactor if the applicant demonstrates substantial efforts to preserve or encourage affordable housing near the project by providing documentation of policies that allow by-right multi-family housing, single room occupancy units, or accessory dwelling units, providing local capital sources for transit-oriented development, or demonstrate other methods as determined by the Secretary.

(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a "medium" rating in order to advance the project from one phase to another.

(3) WARRANTS.—**[**The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—**]** *The Secretary shall—*

[(A) the share of the cost of the project to be provided under this section does not exceed—

[(i) $100,000,000; or

[(ii) 50 percent of the total cost of the project;

[(B) the applicant requests the use of the warrants;]

(A) to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section if—

(i) the share of the cost of the project to be provided under this section—

(I) does not exceed $500,000,000 and the total project cost does not exceed $1,000,000,000; or

(II) complies with subsection (l)(1)(C);

(ii) the applicant requests the use of the warrants;

(iii) the applicant certifies that its existing public transportation system is in a state of good repair; and

(iv) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection; and

(B) establish a warrant that applies to the economic development project justification criteria, provided that the applicant that requests a warrant under this process has completed and submitted a housing feasibility assessment.

(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

(B) establish a warrant that applies to the economic development project justification criteria, provided that the applicant that requests a warrant under this process has completed and submitted a housing feasibility assessment.

(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

[(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

[(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

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

[(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

[(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

[(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.]

(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance on the review and evaluation process and criteria not later than 180 days after the date of enactment of the INVEST in America Act.

(6) TRANSPARENCY.—Not later than 30 days after the Secretary receives a written request from an applicant for all remaining information necessary to obtain 1 or more of the following, the Secretary shall provide such information to the applicant:

(A) Project advancement.

(B) Medium or higher rating.

(C) Warrant.

(D) Letter of intent.

(E) Early systems work agreement.

(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of [the Federal Public Transportation Act of 2012] *the INVEST in America Act*.

(h) SMALL START PROJECTS.—

(1) IN GENERAL.—A small start project shall be subject to the requirements of this subsection.

(2) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new small starts project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representa-

tives of whether the small starts project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

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

(A) has been adopted as the locally preferred alternative as part of the metropolitan transportation plan required under section 5303;

(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (4); and

(C) is supported by ⟦an acceptable degree of⟧ *a* local financial commitment.

(4) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (3)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative): mobility improvements, environmental benefits, congestion relief, economic development effects associated with the project, policies and land use patterns that support public transportation*, the extent to which the project improves transportation options to economically distressed areas,* and cost-effectiveness as measured by cost per rider.

(5) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (3)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable*, except that for a project for which a lower local cost share is elected under subsection (l)(1)(C), the Secretary shall enter into a grant agreement under this subsection for any such project that establishes contingency amounts that the applicant determines to be reasonable to cover unanticipated cost increases or funding shortfalls*.

(6) RATINGS.—

(A) IN GENERAL.—In carrying out paragraphs (4) and (5) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the

benefits that the project will bring to the community in calculating the overall project rating.

(B) OPTIONAL EARLY RATING.—At the request of the project sponsor, the Secretary shall evaluate and rate the project in accordance with paragraphs (4) and (5) and subparagraph (A) of this paragraph upon completion of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

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

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

(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least [10 days] *3 days* before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

[(i) PROGRAMS OF INTERRELATED PROJECTS.—

[(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d), (e), or (h), as applicable.

[(2) ENGINEERING PHASE.—A federally funded new fixed guideway capital project or core capacity improvement project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

[(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

[(B) the project is adopted into the metropolitan transportation plan required under section 5303;

[(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

[(D) the program of interrelated projects, when evaluated as a whole—

[(i) meets the requirements of subsection (d)(2), subsection (e)(2), or paragraphs (3) and (4) of subsection (h), as applicable, if the program is comprised entirely of—

[(I) new fixed guideway capital projects;

[(II) core capacity improvement projects; or

[(III) small start projects; or

[(ii) meets the requirements of subsection (d)(2) if the program is comprised of any combination of new fixed guideway capital projects, small start projects, and core capacity improvement projects;

[(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

[(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f) or subsection (h)(5), as applicable.

[(3) PROJECT ADVANCEMENT AND RATINGS.—

[(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance—

[(i) in the case of a small start project, from the project development phase to the construction phase unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements; or

[(ii) in the case of a new fixed guideway capital project or a core capacity improvement project, from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

[(B) RATINGS.—

[(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

[(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria de-

scribed in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

[(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a "medium" rating in order to advance the program of interrelated projects from one phase to another.

[(4) ANNUAL REVIEW.—

[(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

[(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

[(i) evidence of continued adequate funding; and

[(ii) an estimated time frame for completing the program of interrelated projects.

[(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

[(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

[(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

[(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

[(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

[(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (l).

[(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated

projects does not impose Government requirements that would not otherwise apply to the project.]

(i) INTERRELATED PROJECTS.—

(1) RATINGS IMPROVEMENT.—The Secretary shall grant a rating increase of 1 level in mobility improvements to any project being rated under subsection (d), (e), or (h), if the Secretary certifies that the project has a qualifying interrelated project that meets the requirements of paragraph (2).

(2) INTERRELATED PROJECT.—A qualifying interrelated project is a transit project that—

(A) is adopted into the metropolitan transportation plan required under section 5303;

(B) has received a class of action designation under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(C) will likely increase ridership on the project being rated in subsection (d), (e), or (h), respectively, as determined by the Secretary; and

(D) meets 1 of the following criteria:

(i) Extends the corridor of the project being rated in subsection (d), (e), or (h), respectively.

(ii) Provides a direct passenger transfer to the project being rated in subsection (d), (e), or (h), respectively.

(j) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, approved entry into final design, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

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

(1) LETTERS OF INTENT.—

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

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

(2) FULL FUNDING GRANT AGREEMENTS.—

(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (i), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (i)(3)(B), as applicable.

(C) TERMS.—A full funding grant agreement shall—

(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

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

(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

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

(D) SPECIAL FINANCIAL RULES.—

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

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

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

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

(v) LOCAL FUNDING COMMITMENT.— For a project for which a lower CIG cost share is elected by the applicant under subsection (l)(1)(C), the Secretary shall enter into a full funding grant agreement that has at least 75 percent of local financial commitment committed and the remaining percentage budgeted for the proposed purposes.

(E) BEFORE AND AFTER STUDY.—

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

(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

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

(III) identifies reasons for differences between predicted and actual outcomes.

(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

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

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

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

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

(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capac-

ity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

(3) EARLY SYSTEMS WORK AGREEMENTS.—

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

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

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

(B) CONTENTS.—

(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

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

(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and

penalty charges allowable by law or established by the Secretary in the early systems work agreement.

(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(4) LIMITATION ON AMOUNTS.—

(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

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

(5) NOTIFICATION TO CONGRESS.—At least [30 days] *3 days* before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(l) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

(1) IN GENERAL.—

(A) ESTIMATION OF NET CAPITAL PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost.

[(B) GRANTS.—

[(i) GRANT FOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—A grant for a new fixed guideway capital project shall not exceed 80 percent of the net capital project cost.

[(ii) FULL FUNDING GRANT AGREEMENT FOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—A full funding grant agreement for a new fixed guideway capital project shall not include a share of more than 60 percent from the funds made available under this section.

[(iii) GRANT FOR CORE CAPACITY IMPROVEMENT PROJECT.—A grant for a core capacity improvement project shall not exceed 80 percent of the net capital project cost of the incremental cost to increase the capacity in the corridor.

[(iv) GRANT FOR SMALL START PROJECT.—A grant for a small start project shall not exceed 80 percent of the net capital project costs.]

(B) CAP.—Except as provided in subparagraph (C), a grant for a project under this section shall not exceed 80 percent of the net capital project cost, except that a grant for a core capacity improvement project shall not exceed 80 percent of the net capital project cost of the incremental cost to increase the capacity in the corridor.

(C) APPLICANT ELECTION OF LOWER LOCAL CIG COST SHARE.—An applicant may elect a lower local CIG cost share for a project under this section for purposes of application of the cost-share incentives under subsection (f)(3). Such cost share shall not exceed 60 percent of the net capital project cost, except that for a grant for a core capacity improvement project such cost share shall not exceed 60 percent of the net capital project cost of the incremental cost to increase the capacity in the corridor.

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

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

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

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

(4) REMAINING COSTS.—The remainder of the net capital project costs shall be provided—

(A) in cash from non-Government sources;

(B) from revenues from the sale of advertising and concessions**[**; or**]***;*

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital**[**.**]***; or*

(D) transportation development credits.

(D) from grant proceeds distributed under section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) or section 201 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141) provided that—

(i) such funds are used in conjunction with the planning or development of affordable housing; and

(ii) such affordable housing is located within one-half of a mile of a new station.

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

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require, incentivize (in any manner not specified in this section), or place additional conditions upon a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost or, for a core capacity improvement project, 20 percent of the net capital project cost of the incremental cost to increase the capacity in the corridor.

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

(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

[(8) SPECIAL RULE FOR FIXED GUIDEWAY BUS RAPID TRANSIT PROJECTS.—For up to three fixed-guideway bus rapid transit projects each fiscal year the Secretary shall—

[(A) establish a Government share of at least 80 percent; and

[(B) not lower the project's rating for degree of local financial commitment for purposes of subsections (d)(2)(A)(v) or (h)(3)(C) as a result of the Government share specified in this paragraph.]

(8) CONTINGENCY SHARE.—The Secretary shall provide funding for the contingency amount equal to the proportion of the CIG cost share. If the Secretary increases the contingency amount after a project has received a letter of no prejudice or been allocated appropriated funds, the federal share of the additional contingency amount shall be 25 percent higher than the original proportion the CIG cost share and in addition to the grant amount set in subsection (k)(2)(C)(ii).

(m) UNDERTAKING PROJECTS IN ADVANCE.—

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

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

(B) the Secretary approves the payment; and

(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

(2) FINANCING COSTS.—

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

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

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

(n) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 4 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 4-fiscal-year period may be used by the Secretary for any purpose under this section.

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

(o) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

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

(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d), (e), and (i), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

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

(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a re-

port containing a summary of the results of any studies conducted under subsection (k)(2)(E).

(3) BIENNIAL GAO REVIEW.—The Comptroller General of the United States shall—

(A) conduct a biennial review of—

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

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

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

(4) CIG PROGRAM DASHBOARD.—Not later than the fifth day of each month, the Secretary shall make publicly available on a website data on, including the status of, each project under this section that is in the project development phase, in the engineering phase, or has received a grant agreement and remains under construction. Such data shall include, for each project—

(A) the amount and fiscal year of any funding appropriated, allocated, or obligated for the project;

(B) the date on which the project—

(i) entered the project development phase;

(ii) entered the engineering phase, if applicable; and

(iii) received a grant agreement, if applicable; and

(C) the status of review by the Federal Transit Administration and the Secretary, including dates of request, dates of acceptance of request, and dates of a decision for each of the following, if applicable:

(i) A letter of no prejudice.

(ii) An environmental impact statement notice of intent.

(iii) A finding of no significant environmental impact.

(iv) A draft environmental impact statement.

(v) A final environmental impact statement.

(vi) A record of decision on the final environmental impact statement; and

(vii) The status of the applicant in securing the non-Federal match, based on information provided by the applicant, including the amount committed, budgeted, planned, and undetermined.

(p) SPECIAL RULE.—For the purposes of calculating the cost effectiveness of a project described in subsection (d) or (e), the Secretary shall not reduce or eliminate the capital costs of art and non-functional landscaping elements from the annualized capital cost calculation.

(q) JOINT PUBLIC TRANSPORTATION AND INTERCITY PASSENGER RAIL PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants for new fixed guideway capital projects and core capacity improvement

projects that provide both public transportation and intercity passenger rail service.

(2) ELIGIBLE COSTS.—Eligible costs for a project under this subsection shall be limited to the net capital costs of the public transportation costs attributable to the project based on projected use of the new segment or expanded capacity of the project corridor, not including project elements designed to achieve or maintain a state of good repair, as determined by the Secretary under paragraph (4).

(3) PROJECT JUSTIFICATION AND LOCAL FINANCIAL COMMITMENT.—A project under this subsection shall be evaluated for project justification and local financial commitment under subsections (d), (e), (f), and (h), as applicable to the project, based on—

(A) the net capital costs of the public transportation costs attributable to the project as determined under paragraph (4); and

(B) the share of funds dedicated to the project from sources other than this section included in the unified finance plan for the project.

(4) CALCULATION OF NET CAPITAL PROJECT COST.—The Secretary shall estimate the net capital costs of a project under this subsection based on—

(A) engineering studies;

(B) studies of economic feasibility;

(C) the expected use of equipment or facilities; and

(D) the public transportation costs attributable to the project.

(5) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

(A) GOVERNMENT SHARE.—The Government share shall not exceed 80 percent of the net capital cost attributable to the public transportation costs of a project under this subsection as determined under paragraph (4).

(B) NON-GOVERNMENT SHARE.—The remainder of the net capital cost attributable to the public transportation costs of a project under this subsection shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(r) PUBLICATION.—

(1) PUBLICATION.—The Secretary shall publish a record of decision on all projects in the New Starts tranche of the program within 2 years of receiving a project's draft environmental impact statement or update or change to such statement.

(2) FAILURE TO ISSUE RECORD OF DECISION.—For each calendar month beginning on or after the date that is 12 months after the date of enactment of the INVEST in America Act in which the Secretary has not published a record of decision for the final environmental impact statement on projects in the New Starts tranche for at least 1 year, the Secretary shall reduce the full-time equivalent employees within the immediate office of the Secretary by 1.

§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

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

(1) RECIPIENT.—The term "recipient" means—

(A) a designated recipient or a State that receives a grant under this section directly; or

(B) a State or local governmental entity that operates a public transportation service.

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

(b) GENERAL AUTHORITY.—

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

(A) public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

(2) LIMITATIONS FOR CAPITAL PROJECTS.—

(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

(i) a private nonprofit organization; or

(ii) a State or local governmental authority that—

(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

(II) certifies that there are no private nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

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

(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

(5) COORDINATION.—

(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(ii) participate in the planning for the transportation services described in clause (i).

(6) PROGRAM OF PROJECTS.—

(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

(c) APPORTIONMENT AND TRANSFERS.—

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

(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

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

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

(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

(C) RURAL AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in rural areas in each State; bears to

(ii) the number of seniors and individuals with disabilities in rural areas in all States.

(2) AREAS SERVED BY PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)—

(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

(d) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

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

(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated or otherwise made available—

(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

(ii) to carry out the Federal lands highways program under section 204 of title 23.

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

(e) GRANT REQUIREMENTS.—

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

(2) CERTIFICATION REQUIREMENTS.—

(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation

with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

(1) the recipient in possession of the facility or equipment consents to the transfer; and

(2) the facility or equipment will continue to be used as required under this section.

(h) PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives making recommendations on the establishment of performance measures for grants under this section. Such report shall be developed in consultation with national nonprofit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with disabilities.

(2) MEASURES.—The performance measures to be considered in the report under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

(B) ridership;

(C) accessibility improvements; and

(D) other measures, as the Secretary determines is appropriate.

(i) BEST PRACTICES.—The Secretary shall collect from, review, and disseminate to public transportation agencies—

(1) innovative practices;

(2) program models;

(3) new service delivery options;

(4) findings from activities under subsection (h); and

(5) transit cooperative research program reports.

(j) ONE-STOP PARATRANSIT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall establish a one-stop paratransit competitive grant program to encourage an extra stop in non-fixed route Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) service for a paratransit rider to complete essential tasks.

(2) PREFERENCE.—The Secretary shall give preference to eligible recipients that—

(A) have comparable data for the year prior to implementation of the grant program and made available to the Secretary, academic and nonprofit organizations for research purposes; and

(B) plan to use agency personnel to implement the pilot program.

(3) APPLICATION CRITERIA.—To be eligible to participate in the grant program, an eligible recipient shall submit to the Secretary an application containing such information as the Secretary may require, including information on—

(A) locations the eligible entity intends to allow a stop at, if stops are limited, including—

(i) childcare or education facilities;

(ii) pharmacies;

(iii) grocery stores; and

(iv) bank or ATM locations;

(B) methodology for informing the public of the grant program;

(C) vehicles, personnel, and other resources that will be used to implement the grant program;

(D) if the applicant does not intend the grant program to apply to the full area under the jurisdiction of the applicant, a description of the geographic area in which the applicant intends the grant program to apply; and

(E) the anticipated amount of increased operating costs.

(4) SELECTION.—The Secretary shall seek to achieve diversity of participants in the grant program by selecting a range of eligible entities that includes at least—

(A) 5 eligible recipients that serve an area with a population of 50,000 to 200,000;

(B) 10 eligible recipients that serve an area with a population of over 200,000; and

(C) 5 eligible recipients that provide transportation for rural communities.

(5) DATA-SHARING CRITERIA.—An eligible recipient in this subsection shall provide data as the Secretary requires, including—

(A) number of ADA paratransit trips conducted each year;

(B) requested time of each paratransit trip;

(C) scheduled time of each paratransit trip;

(D) actual pickup time for each paratransit trip;

(E) average length of a stop in the middle of a ride as allowed by this subsection;

(F) any complaints received by a paratransit rider;

(G) rider satisfaction with paratransit services; and

(H) after the completion of the grant, an assessment by the eligible recipient of its capacity to continue a one-stop program independently.

(6) REPORT.—

(A) IN GENERAL.—The Secretary shall make publicly available an annual report on the program carried out under this subsection for each fiscal year, not later than December 31 of the calendar year in which such fiscal year ends.

(B) CONTENTS.—The report required under subparagraph (A) shall include a detailed description of the activities carried out under the program, and an evaluation of the program, including an evaluation of the data shared by eligible recipients under paragraph (5).

(k) INNOVATIVE COORDINATED ACCESS AND MOBILITY.—

(1) START UP GRANTS.—

(A) IN GENERAL.—The Secretary may make grants under this paragraph to eligible recipients to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation services.

(B) APPLICATION.—An eligible recipient shall submit to the Secretary an application that, at a minimum, contains—

(i) a detailed description of the eligible project;

(ii) an identification of all eligible project partners and the specific role of each eligible project partner in the eligible project, including—

(I) private entities engaged in the coordination of nonemergency medical transportation services for the transportation disadvantaged;

(II) nonprofit entities engaged in the coordination of nonemergency medical transportation services for the transportation disadvantaged; or

(III) Federal entities engaged in the coordination of nonemergency medical transportation services for the transportation disadvantaged; and

(iii) a description of how the eligible project shall—

(I) improve local coordination or access to coordinated transportation services;

(II) reduce duplication of service, if applicable; and

(III) provide innovative solutions in the State or community.

(C) PERFORMANCE MEASURES.—An eligible recipient shall specify, in an application for a grant under this paragraph, the performance measures the eligible project will use to quantify actual outcomes against expected outcomes, including—

(i) reduced transportation expenditures as a result of improved coordination; and

(ii) reduced healthcare expenditures as a result of improved coordination.

(D) ELIGIBLE USES.—Eligible recipients receiving a grant under this section may use such funds for—

(i) the deployment of coordination technology;

(ii) projects that create or increase access to community One-Call/One-Click Centers;

(iii) projects that integrate transportation for 3 or more of—

(I) public transportation provided under this section;

(II) a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(III) title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(IV) Veterans Health Administration; or

(V) private health care facilities; and

(iv) such other projects as determined appropriate by the Secretary.

(2) INCENTIVE GRANTS.—

(A) IN GENERAL.—The Secretary may make grants under this paragraph to eligible recipients to incentivize innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation services.

(B) SELECTION OF GRANT RECIPIENTS.—The Secretary shall distribute grant funds made available to carry out this paragraph as described in subparagraph (E) to eligible recipients that apply and propose to demonstrate improvement in the metrics described in subparagraph (F).

(C) ELIGIBILITY.—An eligible recipient shall not be required to have received a grant under paragraph (1) to be eligible to receive a grant under this paragraph.

(D) APPLICATIONS.—Eligible recipients shall submit to the Secretary an application that includes—

(i) which metrics under subparagraph (F) the eligible recipient intends to improve;

(ii) the performance data eligible recipients and the Federal, State, nonprofit, and private partners of the eligible recipient will make available; and

(iii) a proposed incentive formula that makes payments to the eligible recipient based on the proposed data and metrics.

(E) DISTRIBUTION.—The Secretary shall distribute funds made available to carry out this paragraph based upon the number of grant applications approved by the Secretary, number of individuals served by each grant, and the incentive formulas approved by the Secretary using the following metrics:

(i) The reduced transportation expenditures as a result of improved coordination.

(ii) The reduced Federal healthcare expenditures using the metrics described in subparagraph (F).

(iii) The reduced private healthcare expenditures using the metrics described in subparagraph (F).

(F) HEALTHCARE METRICS.—Healthcare metrics described in this subparagraph shall be—

(i) reducing missed medical appointments;

(ii) the timely discharge of patients from hospitals;

(iii) reducing readmissions of patients into hospitals; and

(iv) other measureable healthcare metrics, as determined appropriate by the Secretary.

(G) ELIGIBLE EXPENDITURES.—The Secretary shall allow the funds distributed by this grant program to be expended on eligible activities described in paragraph (1)(D) and any eligible activity under this section that is likely to improve the metrics described in subparagraph (F).

(H) RECIPIENT CAP.—The Secretary—

(i) may not provide more than 20 grants under this paragraph; and

(ii) shall reduce the maximum number of grants under this paragraph to ensure projects are fully funded, if necessary.

(3) REPORT.—The Secretary shall make publicly available an annual report on the program carried out under this subsection for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of the activities carried out under the program, and an evaluation of the program, including an evaluation of the performance measures used by eligible recipients.

(4) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the costs of a project carried out under this subsection shall not exceed 80 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of a project carried out under this subsection may be derived from in-kind contributions.

(5) RULE OF CONSTRUCTION.—For purposes of this subsection, nonemergency medical transportation services shall be limited to services eligible under Federal programs other than programs authorized under this chapter.

§ 5311. Formula grants for rural areas

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) RECIPIENT.—The term "recipient" means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that

receives Federal transit program grant funds indirectly through a recipient.

(3) PERSISTENT POVERTY COUNTY.—The term "persistent poverty county" means any county with a poverty rate of at least 20 percent—

(A) as determined in each of the 1990 and 2000 decennial censuses;

(B) in the Small Area Income and Poverty Estimates of the Bureau of the Census for the most recent year for which the estimates are available; and

(C) has at least 25 percent of its population in rural areas.

(b) GENERAL AUTHORITY.—

(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in rural areas for—

(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of rural areas in the State;

(B) public transportation capital projects;

(C) operating costs of equipment and facilities for use in public transportation;

(D) job access and reverse commute projects; and

(E) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

(2) STATE PROGRAM.—

(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

(i) the program provides a fair distribution of amounts in the State, including Indian reservations *and persistent poverty counties*; and

(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

(D) CENSUS DESIGNATION.—The Secretary may approve a State program that allocates not more than 5 percent of such State's apportionment to assist rural areas that were redesignated as urban areas not more than 2 fiscal years after the last census designation of urbanized area boundaries.

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in rural areas.

(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section [5338(a)(2)(F)] *5338(a)(2)(E)* to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.

(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out competitively selected projects of a national scope, with the remaining balance provided to the States.

(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

(A) total annual revenue;

(B) sources of revenue;

(C) total annual operating costs;

(D) total annual capital costs;

(E) fleet size and type, and related facilities;

(F) vehicle revenue miles; and

(G) ridership.

(c) APPORTIONMENTS.—

(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section [5338(a)(2)(F)] *5338(a)(2)(E)* to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

(A) [$5,000,000] *$10,000,000* for each fiscal year shall be distributed on a competitive basis by the Secretary.

(B) [$30,000,000] *the amount remaining under section 5338(a)(2)(E)(i) after the amount under subparagraph (A) is distributed* for each fiscal year shall be apportioned as formula grants, as provided in subsection (j).

[(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

[(A) DEFINITIONS.—In this paragraph—

[(i) the term "Appalachian region" has the same meaning as in section 14102 of title 40; and

[(ii) the term "eligible recipient" means a State that participates in a program established under subtitle IV of title 40.

[(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

[(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose

eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

[(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

[(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

[(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.]

(2) PERSISTENT POVERTY PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary shall carry out a public transportation assistance program for areas of persistent poverty.

(B) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(E)(ii) to carry out this paragraph, the Secretary shall apportion funds to recipients for service in, or directly benefitting, persistent poverty counties for any eligible purpose under this section in the ratio that—

(i) the number of individuals in each such rural area residing in a persistent poverty county; bears to

(ii) the number of individuals in all such rural areas residing in a persistent poverty county.

(3) REMAINING AMOUNTS.—

(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section [5338(a)(2)(F)] *5338(a)(2)(E)* that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

[(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

[(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

[(ii) LAND AREA.—

[(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

[(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

[(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned

under clause (i), multiplied by the ratio of the population of rural areas in that State and divided by the population of all rural areas in the United States, as shown by the most recent decennial census of population.

[(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

[(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

[(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

[(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in rural areas in that State and divided by the vehicle revenue miles in all rural areas in the United States, as determined by national transit database reporting.

[(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in rural areas in that State and divided by the number of low-income individuals in all rural areas in the United States, as shown by the Bureau of the Census.

[(v) MAXIMUM APPORTIONMENT.—No State shall receive—

[(I) more than 5 percent of the amount apportioned under clause (ii); or

[(II) more than 5 percent of the amount apportioned under clause (iii).]

(B) LAND AREA.—

(i) IN GENERAL.—Subject to clause (ii), each State shall receive an amount that is equal to 15 percent of the amount apportioned under this paragraph, multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

(ii) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under clause (i).

(C) POPULATION.—Each State shall receive an amount equal to 50 percent of the amount apportioned under this paragraph, multiplied by the ratio of the population of

rural areas in that State and divided by the population of all rural areas in the United States, as shown by the most recent decennial census of population.

(D) VEHICLE REVENUE MILES.—

(i) IN GENERAL.—Subject to clause (ii), each State shall receive an amount that is equal to 25 percent of the amount apportioned under this paragraph, multiplied by the ratio of vehicle revenue miles in rural areas in that State and divided by the vehicle revenue miles in all rural areas in the United States, as determined by national transit database reporting.

(ii) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under clause (i).

(E) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 10 percent of the amount apportioned under this paragraph, multiplied by the ratio of low-income individuals in rural areas in that State and divided by the number of low-income individuals in all rural areas in the United States, as shown by the Bureau of the Census.

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in a rural area.

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

(f) INTERCITY BUS TRANSPORTATION.—

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

(A) planning and marketing for intercity bus transportation;

(B) capital grants for intercity bus facilities;

(C) joint-use facilities;

(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the

Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately *and makes the certification and supporting documents publicly available*.

(g) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

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

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

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

(A) may be provided in cash from non-Government sources;

(B) may be provided from revenues from the sale of advertising and concessions;

(C) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

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

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

(F) in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service, including all operating and capital costs of such service whether or not offset by revenue from such service, as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), if the private operator agrees in writing to the use of the costs of the pri-

vate operator for the unsubsidized segment of intercity bus service as an in-kind match.

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

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

(6) ALLOWANCE FOR VOLUNTEER HOURS.—

(A) APPLICABLE REGULATIONS.—For any funds provided by a department or agency of the Government under paragraph (3)(D) or by a service agreement under paragraph (3)(C), and such department or agency has regulations in place that provide for the valuation of volunteer hours as allowable in-kind contributions toward the non-Federal share of project costs, such regulations shall be used to determine the allowable valuation of volunteer hours as an in-kind contribution toward the non-Federal remainder of net project costs for a transit project funded under this section.

(B) LIMITATIONS.—Subparagraph (A) shall not apply to the provision of fixed-route bus services funded under this section.

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

(i) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(j) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

(1) APPORTIONMENT.—

(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands, as defined by the Bureau of the Census) on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term "low-income individual" means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

(E) ALLOCATION BETWEEN MULTIPLE INDIAN TRIBES.—If more than 1 Indian tribe provides public transportation service on tribal lands in a single Tribal Statistical Area, and the Indian tribes do not determine how to allocate the funds apportioned under clause (iii) of subparagraph (A) between the Indian tribes, the Secretary shall allocate the funds so that each Indian tribe shall receive an amount equal to the total amount apportioned under such clause (iii) multiplied by the ratio of the number of annual unlinked passenger trips provided by each Indian tribe, as reported to the National Transit Database, to the total unlinked passenger trips provided by all Indian tribes in the Tribal Statistical Area.

(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.

§ **5312.** . Public transportation innovation

(a) IN GENERAL.—The Secretary shall provide assistance for projects and activities to advance innovative public transportation research and development in accordance with the requirements of this section.

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

(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

(A) departments, agencies, and instrumentalities of the Government, including Federal laboratories;

(B) State and local governmental entities;

(C) providers of public transportation;

(D) private or non-profit organizations;

(E) institutions of higher education; and

(F) technical and community colleges.

(3) APPLICATION.—

(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

(i) a statement of purpose detailing the need being addressed;

(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

(c) RESEARCH.—

(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (b)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

(A) providing more effective and efficient public transportation service, including services to—

(i) seniors;
(ii) individuals with disabilities; and
(iii) low-income individuals;

(B) mobility management and improvements and travel management systems;

(C) data and communication system advancements;

(D) system capacity, including—
(i) train control;
(ii) capacity improvements; and
(iii) performance management;

(E) capital and operating efficiencies;

(F) planning and forecasting modeling and simulation;

(G) advanced vehicle design;

(H) advancements in vehicle technology;

(I) asset maintenance and repair systems advancement;

(J) construction and project management;

(K) alternative fuels;

(L) the environment and energy efficiency;

(M) safety improvements; or

(N) any other area that the Secretary determines is important to advance the interests of public transportation.

(d) INNOVATION AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (b)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

(A) the development of public transportation research projects that received assistance under subsection (c) that the Secretary determines were successful;

(B) planning and forecasting modeling and simulation;

(C) capital and operating efficiencies;

(D) advanced vehicle design;

(E) advancements in vehicle technology;

(F) the environment and energy efficiency;

(G) system capacity, including train control and capacity improvements; or

(H) any other area that the Secretary determines is important to advance the interests of public transportation.

(3) MOBILITY INNOVATION SANDBOX PROGRAM.—The Secretary may make funding available under this subsection to carry out research on mobility on demand and mobility as a service activities eligible under section 5316.

(4) TRANSIT BUS OPERATOR COMPARTMENT REDESIGN PROGRAM.—

(A) IN GENERAL.—The Secretary may make funding available under this subsection to carry out research on redesigning transit bus operator compartments to improve safety, operational efficiency, and passenger accessibility.

(B) OBJECTIVES.—Research objectives under this paragraph shall include—

(i) increasing bus operator safety from assaults;

(ii) optimizing operator visibility and reducing operator distractions to improve safety of bus passengers, pedestrians, bicyclists, and other roadway users;

(iii) expanding passenger accessibility for positive interactions between operators and passengers, including assisting passengers in need of special assistance;

(iv) accommodating compliance for passenger boarding, alighting, and securement with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(v) improving ergonomics to reduce bus operator work-related health issues and injuries, as well as locate key instrument and control interfaces to improve operational efficiency and convenience.

(C) ACTIVITIES.—Eligible activities under this paragraph shall include—

(i) measures to reduce visibility impairments and distractions for bus operators that contribute to accidents, including retrofits to buses in revenue service and specifications for future procurements that reduce visibility impairments and distractions;

(ii) the deployment of assault mitigation infrastructure and technology on buses, including barriers to restrict the unwanted entry of individuals and objects into bus operators' workstations;

(iii) technologies to improve passenger accessibility, including boarding, alighting, and securement in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(iv) installation of seating and modification to design specifications of bus operator workstations that reduce or prevent injuries from ergonomic risks; or

(v) other measures that align with the objectives under subparagraph (B).

(D) ELIGIBLE ENTITIES.—Entities eligible to receive funding under this paragraph shall include consortia consisting of, at a minimum:

(i) recipients of funds under this chapter that provide public transportation services;

(ii) transit vehicle manufacturers;

(iii) representatives from organizations engaged in collective bargaining on behalf of transit workers in not fewer than 3 States; and

(iv) any nonprofit institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(e) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

(2) PARTICIPANTS.—An entity described in this paragraph is—

(A) an entity described in subsection (b)(2); or

(B) a consortium of entities described in subsection (b)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

(3) PROJECT ELIGIBILITY.—A demonstration, deployment, or evaluation project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

(A) the deployment of research and technology development resulting from private efforts or Federally funded efforts;

(B) the implementation of research and technology development to advance the interests of public transportation; or

(C) the deployment of ⟦low or no emission vehicles, zero emission vehicles,⟧ *zero emission vehicles* or associated advanced technology.

(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

(5) PROHIBITION.—The Secretary may not make grants under this subsection for the demonstration, deployment, or evaluation of a vehicle that is in revenue service unless the Secretary determines that the project makes significant technological advancements in the vehicle.

⟦(6) DEFINITIONS.—In this subsection—

⟦(A) the term "direct carbon emissions" means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency;

⟦(B) the term "low or no emission vehicle" means—

⟦(i) a passenger vehicle used to provide public transportation that the Secretary determines sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

[(ii) a zero emission vehicle used to provide public transportation; and

[(C) the term "zero emission vehicle" means a low or no emission vehicle that produces no carbon or particulate matter.]

(6) ZERO EMISSION VEHICLE DEFINED.—In this subsection, the term "zero emission vehicle" means a passenger vehicle used to provide public transportation that produces no carbon or particulate matter.

[(g)] *(f)* ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall make available to the public on the Web site of the Department of Transportation, a report that includes—

(1) a description of each project that received assistance under this section during the preceding fiscal year; and

(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (e)(4) for the preceding fiscal year.

(g) GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.

(h) [LOW OR NO EMISSION] *ZERO EMISSION* VEHICLE COMPONENT ASSESSMENT.—

(1) DEFINITIONS.—In this subsection—

(A) the term "covered institution of higher education" means an institution of higher education with which the Secretary enters into a contract or cooperative agreement, or to which the Secretary makes a grant, under paragraph (2)(B) to operate a facility selected under paragraph (2)(A);

[(B) the terms "direct carbon emissions" and "low or no emission vehicle" have the meanings given those terms in subsection (e)(6);]

(B) the term "zero emission vehicle" has the meaning given such term in subsection (e)(6);

(C) the term "institution of higher education" has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(D) the term "[low or no emission vehicle] *zero emission vehicle* component" means an item that is separately installed in and removable from a [low or no emission vehicle] *zero emission vehicle*.

(2) ASSESSING [LOW OR NO EMISSION] *ZERO EMISSION* VEHICLE COMPONENTS.—

(A) IN GENERAL.—The Secretary shall competitively select at least one facility to conduct testing, evaluation, and analysis of [low or no emission] *zero emission* vehicle components intended for use in [low or no emission] *zero emission* vehicles.

(B) OPERATION AND MAINTENANCE.—

(i) IN GENERAL.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, at least one institution of higher education to operate and maintain a facility selected under subparagraph (A).

(ii) REQUIREMENTS.—An institution of higher education described in clause (i) shall have—

(I) capacity to carry out transportation-related advanced component and vehicle evaluation;

(II) laboratories capable of testing and evaluation; and

(III) direct access to or a partnership with a testing facility capable of emulating real-world circumstances in order to test [low or no emission] *zero emission* vehicle components installed on the intended vehicle.

(C) FEES.—A covered institution of higher education shall establish and collect fees, which shall be approved by the Secretary, for the assessment of [low or no emission] *zero emission* vehicle components at the applicable facility selected under subparagraph (A).

(D) AVAILABILITY OF AMOUNTS TO PAY FOR ASSESSMENT.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to an institution of higher education under which—

(i) the Secretary shall pay 50 percent of the cost of assessing a [low or no emission] *zero emission* vehicle component at the applicable facility selected under subparagraph (A) from amounts made available to carry out this section; and

(ii) the remaining 50 percent of such cost shall be paid from amounts recovered through the fees established and collected pursuant to subparagraph (C).

(E) VOLUNTARY TESTING.—A manufacturer of a [low or no emission] *zero emission* vehicle component is not required to assess the [low or no emission] *zero emission* vehicle component at a facility selected under subparagraph (A).

(F) COMPLIANCE WITH SECTION 5318.—Notwithstanding whether a [low or no emission] *zero emission* vehicle component is assessed at a facility selected under subparagraph (A), each new bus model shall comply with the requirements under section 5318.

(G) SEPARATE FACILITY.—A facility selected under subparagraph (A) shall be separate and distinct from the facility operated and maintained under section 5318.

(3) LOW OR NO EMISSION VEHICLE COMPONENT PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2015, and annually thereafter, the Secretary shall issue a report on [low or no emission] *zero emission* vehicle component assessments conducted at each facility selected under paragraph (2)(A), which shall include information related to the maintainability, reliability, performance, structural integrity, efficiency, and noise of those [low or no emission] *zero emission* vehicle components.

(4) PUBLIC AVAILABILITY OF ASSESSMENTS.—Each assessment conducted at a facility selected under paragraph (2)(A) shall be made publicly available, including to affected industries.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require—

(A) a [low or no emission] *zero emission* vehicle component to be tested at a facility selected under paragraph (2)(A); or

(B) the development or disclosure of a privately funded component assessment.

(i) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—The amounts made available under section [5338(a)(2)(G)(ii)] *5338(a)(2)(F)(iii)* are available for a public transportation cooperative research program.

(2) INDEPENDENT GOVERNING BOARD.—

(A) ESTABLISHMENT.—The Secretary shall establish an independent governing board for the program under this subsection.

(B) RECOMMENDATIONS.—The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

(3) FEDERAL ASSISTANCE.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary considers appropriate.

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

(5) LIMITATION ON APPLICABILITY.—Subsections (f) and (g) shall not apply to activities carried out under this subsection.

(j) DEMONSTRATION GRANTS TO SUPPORT REDUCED FARE TRANSIT.—

(1) IN GENERAL.—Not later than 300 days after the date of enactment of the INVEST in America Act, the Secretary shall award grants (which shall be known as "Access to Jobs Grants") to eligible entities, on a competitive basis, to implement reduced fare transit service.

(2) NOTICE.—Not later than 180 days after the date of enactment of the INVEST in America Act, the Secretary shall provide notice to eligible entities of the availability of grants under paragraph (1).

(3) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible recipient shall submit to the Secretary an application containing such information as the Secretary may require, including, at a minimum, the following:

(A) A description of how the eligible entity plans to implement reduced fare transit access with respect to low-income individuals, including any eligibility requirements for such transit access.

(B) A description of how the eligible entity will consult with local community stakeholders, labor unions, local education agencies and institutions of higher education, public housing agencies, and workforce development boards in the implementation of reduced fares.

(C) A description of the eligible entity's current fare evasion enforcement policies, including how the eligible entity plans to use the reduced fare program to reduce fare evasion.

(D) An estimate of additional costs to such eligible entity as a result of reduced transit fares.

(4) GRANT DURATION.—Grants awarded under this subsection shall be for a 2-year period.

(5) SELECTION OF ELIGIBLE RECIPIENTS.—In carrying out the program under this subsection, the Secretary shall award not more than 20 percent of grants to eligible entities located in rural areas.

(6) USES OF FUNDS.—An eligible entity receiving a grant under this subsection shall use such grant to implement a reduced fare transit program and offset lost fare revenue.

(7) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term "eligible entity" means a State, local, or Tribal governmental entity that operates a public transportation service and is a recipient or subrecipient of funds under this chapter.

(B) LOW-INCOME INDIVIDUAL.—The term "low-income individual" means an individual—

(i) that has qualified for—

(I) any program of medical assistance under a State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(II) supplemental nutrition assistance program (SNAP) under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(III) the program of block grants for States for temporary assistance for needy families (TANF) established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(IV) the free and reduced price school lunch program established under the Richard B. Russell

National School Lunch Act (42 U.S.C. 1751 et seq.);

(V) a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o));

(VI) benefits under the Low-Income Home Energy Assistance Act of 1981; or

(VII) special supplemental food program for women, infants and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or

(ii) whose family income is at or below a set percent (as determined by the eligible recipient) of the poverty line (as that term is defined in section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(8) REPORT.—The Secretary shall designate a university transportation center under section 5505 to collaborate with the eligible entities receiving a grant under this subsection to collect necessary data to evaluate the effectiveness of meeting the targets described in the application of such recipient, including increased ridership and progress towards significantly closing transit equity gaps.

(k) EVERY DAY COUNTS INITIATIVE.—

(1) IN GENERAL.—It is in the national interest for the Department of Transportation and recipients of Federal public transportation funds—

(A) to identify, accelerate, and deploy innovation aimed at expediting project delivery, enhancing the safety of transit systems of the United States, and protecting the environment;

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner;

(C) to promote the rapid deployment of proven solutions that provide greater accountability for public investments; and

(D) to create a culture of innovation within the transit community.

(2) FTA EVERY DAY COUNTS INITIATIVE.—To advance the policies described in paragraph (1), the Administrator of the Federal Transit Administration shall adopt the Every Day Counts initiative to work with recipients to identify and deploy the proven innovation practices and products that—

(A) accelerate innovation deployment;

(B) expedite the project delivery process;

(C) improve environmental sustainability;

(D) enhance transit safety;

(E) expand mobility; and

(F) reduce greenhouse gas emissions.

(3) CONSIDERATION.—In accordance with the Every Day Counts goals described in paragraphs (1) and (2), the Adminis-

trator shall consider research conducted through the university transportation centers program in section 5505.

(4) INNOVATION DEPLOYMENT.—

(A) IN GENERAL.—At least every 2 years, the Administrator shall work collaboratively with recipients to identify a new collection of innovations, best practices, and data to be deployed to recipients through case studies, webinars, and demonstration projects.

(B) REQUIREMENTS.—In identifying a collection described in subparagraph (A), the Secretary shall take into account market readiness, impacts, benefits, and ease of adoption of the innovation or practice.

(5) PUBLICATION.—Each collection identified under paragraph (4) shall be published by the Administrator on a publicly available website.

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§ 5314. Technical assistance and workforce development

(a) TECHNICAL ASSISTANCE AND STANDARDS.—

(1) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

(i) more effectively and efficiently provide public transportation service;

(ii) administer funds received under this chapter in compliance with Federal law; and

(iii) improve public transportation.

(B) ELIGIBLE ACTIVITIES.—The activities carried out under subparagraph (A) may include—

(i) technical assistance**[**; and**]***;*

(ii) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics**[**.**]***; and*

(iii) technical assistance to assist recipients with the impacts of a new census count.

(2) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public-transportation-related technical assistance under this subsection. The Secretary may enter into such con-

tracts, cooperative agreements, and other agreements to assist providers of public transportation to—

(A) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

(B) comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through technical assistance, training, and support services related to complying with such requirements;

(C) meet the transportation needs of elderly individuals;

(D) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

(E) address transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals;

(F) facilitate best practices to promote bus driver safety;

(G) meet the requirements of [sections 5323(j) and 5323(m)] *section 5320*;

(H) assist with the development and deployment of low or no emission vehicles (as defined in section 5339(c)(1)) or low or no emission vehicle components (as defined in section 5312(h)(1)); [and]

(I) provide innovation and capacity-building to rural and tribal public transportation recipients but that not to duplicate the activities of sections 5311(b) or 5312; and

[(I)] *(J)* any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

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

(A) a description of each project that received assistance under this subsection during the preceding fiscal year;

(B) an evaluation of the activities carried out by each organization that received assistance under this subsection during the preceding fiscal year;

(C) a proposal for allocations of amounts for assistance under this subsection for the subsequent fiscal year; and

(D) measurable outcomes and impacts of the programs funded under subsections (b) and (c).

(4) GOVERNMENT SHARE OF COSTS.—

(A) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this subsection may not exceed 80 percent.

(B) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this subsection may be derived from in-kind contributions.

(4) AVAILABILITY OF AMOUNTS.—Of the amounts made available to carry out this section under section 5338(c), $1,500,000 shall be available to carry out activities described in paragraph (2)(I).

(b) HUMAN RESOURCES AND TRAINING.—

(1) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

(A) an employment training program;

(B) an outreach program to increase employment for veterans, females, individuals with a disability, minorities (including American Indians or Alaska Natives, Asian, Black or African Americans, native Hawaiians or other Pacific Islanders, and Hispanics) in public transportation activities;

(C) research on public transportation personnel and training needs;

(D) training and assistance for veteran and minority business opportunities; and

(E) consensus-based national training standards and certifications in partnership with industry stakeholders.

[(2) INNOVATIVE PUBLIC TRANSPORTATION FRONTLINE WORKFORCE DEVELOPMENT PROGRAM.—

[(A) IN GENERAL.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under paragraph (1).

[(B) ELIGIBLE PROGRAMS.—A program eligible for assistance under paragraph (1) shall—

[(i) develop apprenticeships, on-the-job training, and instructional training for public transportation maintenance and operations occupations;

[(ii) build local, regional, and statewide public transportation training partnerships with local public transportation operators, labor union organizations, workforce development boards, and State workforce agencies to identify and address workforce skill gaps;

[(iii) improve safety, security, and emergency preparedness in local public transportation systems through improved safety culture and workforce communication with first responders and the riding public; and

[(iv) address current or projected workforce shortages by developing partnerships with high schools, community colleges, and other community organizations.

[(C) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

[(i) are geographically diverse;

[(ii) address the workforce and human resources needs of large public transportation providers;

[(iii) address the workforce and human resources needs of small public transportation providers;

[(iv) address the workforce and human resources needs of urban public transportation providers;

[(v) address the workforce and human resources needs of rural public transportation providers;

[(vi) advance training related to maintenance of low or no emission vehicles and facilities used in public transportation;

[(vii) target areas with high rates of unemployment;

[(viii) advance opportunities for minorities, women, veterans, individuals with disabilities, low-income populations, and other underserved populations; and

[(ix) address in-demand industry sector or occupation, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

[(D) PROGRAM OUTCOMES.—A recipient of assistance under this subsection shall demonstrate outcomes for any program that includes skills training, on-the-job training, and work-based learning, including—

[(i) the impact on reducing public transportation workforce shortages in the area served;

[(ii) the diversity of training participants;

[(iii) the number of participants obtaining certifications or credentials required for specific types of employment;

[(iv) employment outcomes, including job placement, job retention, and wages, using performance metrics established in consultation with the Secretary and the Secretary of Labor and consistent with metrics used by programs under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.); and

[(v) to the extent practical, evidence that the program did not preclude workers who are participating in skills training, on-the-job training, and work-based learning from being referred to, or hired on, projects funded under this chapter without regard to the length of time of their participation in the program.

[(E) REPORT TO CONGRESS.—The Secretary shall make publicly available a report on the Frontline Workforce De-

velopment Program for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of activities carried out under this paragraph, an evaluation of the program, and policy recommendations to improve program effectiveness.]

(2) NATIONAL TRANSIT FRONTLINE WORKFORCE TRAINING CENTER.—

(A) ESTABLISHMENT.—The Secretary shall establish a national transit frontline workforce training center (hereinafter referred to as the "Center") and award grants to a nonprofit organization with a demonstrated capacity to develop and provide transit career ladder programs through labor-management partnerships and apprenticeships on a nationwide basis, in order to carry out the duties under subparagraph (B). The Center shall be dedicated to the needs of the frontline transit workforce in both rural and urban transit systems by providing standards-based training in the maintenance and operations occupations.

(B) DUTIES.—

(i) IN GENERAL.—In cooperation with the Administrator of the Federal Transit Administration, public transportation authorities, and national entities, the Center shall develop and conduct training and educational programs for frontline local transportation employees of recipients eligible for funds under this chapter.

(ii) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under clause (i) may include courses in recent developments, techniques, and procedures related to—

(I) developing consensus national training standards in partnership with industry stakeholders for key frontline transit occupations with demonstrated skill gaps;

(II) developing national systems of qualification and apprenticeship for transit maintenance and operations occupations;

(III) building local, regional, and statewide transit training partnerships to identify and address workforce skill gaps and develop skills needed for delivering quality transit service and supporting employee career advancement;

(IV) developing programs for training of transit frontline workers, instructors, mentors, and labor-management partnership representatives, in the form of classroom, hands-on, on-the-job, and web-based training, delivered at a national center, regionally, or at individual transit agencies;

(V) developing training programs for skills related to existing and emerging transit technologies, including zero emission buses;

(VI) developing improved capacity for safety, security, and emergency preparedness in local transit systems and in the industry as a whole through—

(aa) developing the role of the transit frontline workforce in building and sustaining safety culture and safety systems in the industry and in individual public transportation systems; and

(bb) training to address transit frontline worker roles in promoting health and safety for transit workers and the riding public;

(VII) developing local transit capacity for career pathways partnerships with schools and other community organizations for recruiting and training under-represented populations as successful transit employees who can develop careers in the transit industry; and

(VIII) in collaboration with the Administrator of the Federal Transit Administration and organizations representing public transit agencies, conducting and disseminating research to—

(aa) provide transit workforce job projections and identify training needs and gaps;

(bb) determine the most cost-effective methods for transit workforce training and development, including return on investment analysis;

(cc) identify the most effective methods for implementing successful safety systems and a positive safety culture; and

(dd) promote transit workforce best practices for achieving cost-effective, quality, safe, and reliable public transportation services.

(C) COORDINATION.—The Secretary shall coordinate activities under this section, to the maximum extent practicable, with the National Office of Apprenticeship of the Department of Labor and the Office of Career, Technical, and Adult Education of the Department of Education.

(D) AVAILABILITY OF AMOUNTS.—

(i) IN GENERAL.—Not more than 1 percent of amounts made available to a recipient under sections 5307, 5311, 5337, and 5339 is available for expenditures by the recipient, with the approval of the Secretary, to pay not more than 80 percent of the cost of eligible activities under this subsection.

(ii) EXISTING PROGRAMS.—A recipient may use amounts made available under clause (i) to carry out existing local education and training programs for public transportation employees supported by the Secretary, the Department of Labor, or the Department of Education.

(3) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under paragraph (1) [or (2)] shall be 50 percent.

[(4) AVAILABILITY OF AMOUNTS.—Not more than 0.5 percent of amounts made available to a recipient under sections 5307, 5337, and 5339 is available for expenditures by the recipient, with the approval of the Secretary, to pay not more than 80 percent of the cost of eligible activities under this subsection.]

(c) NATIONAL TRANSIT INSTITUTE.—

(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public 4-year degree-granting institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

(2) DUTIES.—

(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

(i) intermodal and public transportation planning;

(ii) management;

(iii) environmental factors;

(iv) acquisition and joint use rights-of-way;

(v) engineering and architectural design;

(vi) procurement strategies for public transportation systems;

(vii) turnkey approaches to delivering public transportation systems;

(viii) new technologies;

(ix) emission reduction technologies;

(x) ways to make public transportation accessible to individuals with disabilities;

(xi) construction, construction management, insurance, and risk management;

(xii) maintenance;

(xiii) contract administration;

(xiv) inspection;

(xv) innovative finance;

(xvi) workplace safety; and

(xvii) public transportation security.

(3) PROVISION FOR EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

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

(B) when the education and training are paid under paragraph (4), by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(4) AVAILABILITY OF AMOUNTS.—

(A) IN GENERAL.—Not more than 0.5 percent of amounts made available to a recipient under sections 5307, *5311, 5311*, 5337, and 5339 is available for expenditures by the recipient, with the approval of the Secretary, to pay not more than 80 percent of the cost of eligible activities under this subsection.

(B) EXISTING PROGRAMS.—A recipient may use amounts made available under subparagraph (A) to carry out existing local education and training programs for public transportation employees supported by the Secretary, the Department of Labor, or the Department of Education.

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§ 5316. Mobility innovation

(a) IN GENERAL.—Amounts made available to a covered recipient to carry out sections 5307, 5310, and 5311 may be used by such covered recipient under this section to assist in the financing of—

(1) mobility as a service; and

(2) mobility on demand services.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Federal share of the net cost of a project carried out under this section shall not exceed 80 percent.

(2) INSOURCING INCENTIVE.—Notwithstanding paragraph (1), the Federal share of the net cost of a project described in paragraph (1) shall be reduced by 25 percent if the recipient uses a third-party contract for a mobility on demand service.

(3) ZERO EMISSION INCENTIVE.—Notwithstanding paragraph (1), the Federal share of the net cost of a project described in paragraph (1) shall be reduced by 25 percent if such project involves an eligible use that uses a vehicle that produces carbon dioxide or particulate matter.

(c) ELIGIBLE USES.—

(1) IN GENERAL.—The Secretary shall publish guidance describing eligible activities that are demonstrated to—

(A) increase transit ridership;

(B) be complementary to fixed route transit service;

(C) demonstrate substantial improvements in—

(i) environmental metrics, including standards established pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and greenhouse gas performance targets established pursuant to section 150(d) of title 23;

(ii) traffic congestion;

(iii) compliance with the requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(iv) low-income service to increase access to employment, healthcare, and other essential services;

(v) service outside of transit agency operating hours, provided that the transit agency operating hours are not reduced;

(vi) new low density service relative to the higher density urban areas of the agency's service area; and

(vii) rural service.

(D) FARE COLLECTION MODERNIZATION.—In developing guidance referred to in this section, the Secretary shall ensure that—

(i) all costs associated with installing, modernizing, and managing fare collection, including touchless payment systems, shall be considered eligible expenses under this title and subject to the applicable Federal share; and

(ii) such guidance includes guidance on how agencies shall provide unbanked and underbanked users with an opportunity to benefit from mobility as a service platforms.

(2) PROHIBITION ON USE OF FUNDS.—Amounts used by a covered recipient for projects eligible under this section may not be used for—

(A) single passenger vehicle miles (in a passenger motor vehicle, as such term is defined in section 32101, that carries less than 9 passengers), unless the trip—

(i) meets the definition of public transportation; and

(ii) begins or completes a fixed route public transportation trip;

(B) deadhead vehicle miles; or

(C) any service considered a taxi service for purposes of section 5331.

(d) FEDERAL REQUIREMENTS.—A project carried out under this section shall be treated as if such project were carried out under the section from which the funds were provided to carry out such project, including the application of any additional requirements provided for by law that apply to section 5307, 5310, or 5311, as applicable.

(e) WAIVER.—

(1) INDIVIDUAL WAIVER.—Except as provided in paragraph (2), the Secretary may waive any requirement applied to a project carried out under this section pursuant to subsection (d) if the Secretary determines that the project would—

(A) not undermine labor standards;

(B) increase employment opportunities of the recipient; and

(C) be consistent with the public interest.

(2) WAIVER UNDER OTHER SECTIONS.—The Secretary may not waive any requirement under paragraph (1) for which a waiver is otherwise available.

(3) PROHIBITION OF WAIVER.—Notwithstanding paragraph (1), the Secretary may not waive any requirement of—

(A) section 5333;

(B) section 5331;

(C) section 5302(14); and

(D) chapter 53 that establishes a maximum Federal share for operating costs.

(4) APPLICATION OF SECTION 5320.—Notwithstanding paragraphs (1) and (2), the Secretary may only waive the requirements of section 5320 with respect to—

(A) a passenger vehicle owned by an individual; and

(B) subsection (q) of such section for any passenger vehicle not owned by an individual for the period beginning on the date of enactment of this section and ending 3 years after such date.

(f) OPEN DATA STANDARDS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to develop an open data standard and an application programming interface necessary to carry out this section.

(2) REGULATIONS.—The regulations required under paragraph (1) shall require public transportation agencies, mobility on demand providers, mobility as a service technology providers, other non-government actors, and local governments the efficient means to transfer data to—

(A) foster the efficient use of transportation capacity;

(B) enhance the management of new modes of mobility;

(C) enable the use of innovative planning tools;

(D) enable single payment systems for all mobility on demand services;

(E) establish metropolitan planning organization, State, and local government access to anonymized data for transportation planning, real time operations data, and rules;

(F) safeguard personally identifiable information;

(G) protect confidential business information; and

(H) enhance cybersecurity protections.

(3) PROHIBITION ON FOR PROFIT ACTIVITY.—Any data received by an entity under this subsection may not be sold, leased, or otherwise used to generate profit, except for the direct provision of the related mobility on demand services and mobility as a service.

(4) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this subsection shall have a maximum of 17 members limited to representatives of the Department of Transportation, State and local governments, metropolitan planning organizations, urban and rural covered recipients, associations that represent public transit agencies, representatives from at least 3 different organi-

zations engaged in collective bargaining on behalf of transit workers in not fewer than 3 States, mobility on demand providers, and mobility as a service technology providers.

(5) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 18 months after such date of enactment.

(6) EXTENSION OF DEADLINES.—A deadline set forth in paragraph (4) may be extended up to 180 days if the negotiated rulemaking committee referred to in paragraph (5) concludes that the committee cannot meet the deadline and the Secretary so notifies the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(g) APPLICATION OF RECIPIENT REVENUE VEHICLE MILES.—With respect to revenue vehicle miles with one passenger of a covered recipient using amounts under this section, such miles—

(1) shall be included in the National Transit Database under section 5335; and

(2) shall be excluded from vehicle revenue miles data used in the calculation described in section 5336.

(h) SAVINGS CLAUSE.—Subsection (c)(2) and subsection (g) shall not apply to any eligible activities under this section if such activities are being carried out in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(i) DEFINITIONS.—In this section:

(1) DEADHEAD VEHICLE MILES.—The term "deadhead vehicle miles" means the miles that a vehicle travels when out of revenue service, including leaving or returning to the garage or yard facility, changing routes, when there is no expectation of carrying revenue passengers, and any miles traveled by a private operator without a passenger.

(2) MOBILITY AS A SERVICE.—The term "mobility as a service" means services that constitute the integration of mobility on demand services and public transportation that are available and accessible to all travelers, provide multimodal trip planning, and a unified payment system.

(3) MOBILITY ON DEMAND.—The term "mobility on demand" means an on-demand transportation service shared among individuals, either concurrently or one after another.

(4) COVERED RECIPIENT.—The term "covered recipient" means a State or local government entity, private nonprofit organization, or Tribe that—

(A) operates a public transportation service; and

(B) is a recipient or subrecipient of funds under section 5307, 5310, or 5311.

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§ 5318. Bus testing facility

(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, per-

formance (including braking performance), structural integrity, fuel economy, emissions, and noise.

(b) OPERATION AND MAINTENANCE.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, a qualified person or organization to operate and maintain the facility. The contract, cooperative agreement, or grant may provide for the testing of rail cars and other public transportation vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available to carry out this section. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) ACQUIRING NEW BUS MODELS.—

(1) IN GENERAL.—Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if—

(A) a bus of that model has been tested at a facility authorized under subsection (a); and

(B) the bus tested under subparagraph (A) met—

(i) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

(ii) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).

(2) BUS TEST "PASS/FAIL" STANDARD.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule under subparagraph (B)(i). The final rule issued under paragraph (B)(i) shall include a bus model scoring system that results in a weighted, aggregate score that uses the testing categories under subsection (a) and considers the relative importance of each such testing category. The final rule issued under subparagraph (B)(i) shall establish a "pass/fail" standard that uses the aggregate score described in the preceding sentence. Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if the new bus model has received a passing aggregate test score. The Secretary shall work with the bus testing facility, bus manufacturers, and transit agencies to develop the bus model scoring system under this paragraph. A passing aggregate test score under the rule issued under subparagraph (B)(i) indicates only that amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model and shall not be interpreted as a warranty or guarantee that the new bus model will meet a purchaser's specific requirements.

(f) TESTING SCHEDULE.—The Secretary shall—

(1) determine eligibility of a bus manufacturer's request for testing within 10 business days;

(2) make publicly available the current backlog (in months) to begin testing a new bus at the bus testing facility; and

(3) designate The Ohio State University as the autonomous and advanced driver-assistance systems test development facility for all bus testing with autonomous or advanced driver-assistance systems technology and The Ohio State University will also serve as the over-flow new model bus testing facility to Altoona.

* * * * * * *

§ 5320. Buy America

(a) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring rolling stock (including train control, communication, traction power equipment, and rolling stock prototypes) under this chapter—

(A) the cost of components and subcomponents produced in the United States is more than 70 percent of the cost of all components of the rolling stock; and

(B) final assembly of the rolling stock has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

(1) WAIVER PROCEDURE.—Not later than 120 days after the submission of a request for a waiver, the Secretary shall make a determination under subsection (b)(1), (b)(2), or (b)(4) as to whether to waive subsection (a).

(2) PUBLIC NOTIFICATION AND COMMENT.—

(A) IN GENERAL.—Not later than 30 days before making a determination regarding a waiver described in paragraph (1), the Secretary shall provide notification and an opportunity for public comment on the request for such waiver.

(B) NOTIFICATION REQUIREMENTS.—The notification required under subparagraph (A) shall—

(i) describe whether the application is being made for a waiver described in subsection (b)(1), (b)(2) or (b)(4); and

(ii) be provided to the public by electronic means, including on the public website of the Department of Transportation.

(3) DETERMINATION.—Before a determination described in paragraph (1) takes effect, the Secretary shall publish a detailed justification for such determination that addresses all public comments received under paragraph (2)—

(A) on the public website of the Department of Transportation; and

(B) if the Secretary issues a waiver with respect to such determination, in the Federal Register.

(4) ANNUAL REPORT.—Annually, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (1) during the preceding year.

(d) ROLLING STOCK WAIVER CONDITIONS.—

(1) LABOR COSTS FOR FINAL ASSEMBLY.—In this section, highly skilled labor costs involved in final assembly shall be included as a separate component in the cost of components and subcomponents under subsection (b)(3)(A).

(2) HIGH DOMESTIC CONTENT COMPONENT BONUS.—In this section, in calculating the domestic content of the rolling stock under subsection (b)(3), the percent, rounded to the nearest whole number, of the domestic content in components of such rolling stock, weighted by cost, shall be used in calculating the domestic content of the rolling stock, except—

(A) with respect to components that exceed—

(i) 70 percent domestic content, the Secretary shall add 10 additional percent to the component's domestic content when calculating the domestic content of the rolling stock; and

(ii) 75 percent domestic content, the Secretary shall add 15 additional percent to the component's domestic content when calculating the domestic content of the rolling stock; and

(B) in no case may a component exceed 100 domestic content when calculating the domestic content of the rolling stock.

(3) ROLLING STOCK FRAMES OR CAR SHELLS.—

(A) INCLUSION OF COSTS.—Subject to the substantiation requirement of subparagraph (B), in carrying out, in calculating the cost of the domestic content of the rolling stock under subsection (b)(3), in the case of a rolling stock procurement receiving assistance under this chapter in which the average cost of a rolling stock vehicle in the procurement is more than $300,000, if rolling stock frames or car shells are not produced in the United States, the Secretary shall include in the calculation of the domestic content of the rolling stock the cost of the steel or iron that is produced in the United States and used in the rolling stock frames or car shells.

(B) SUBSTANTIATION.—If a rolling stock vehicle manufacturer wishes to include in the calculation of the vehicle's domestic content the cost of steel or iron produced in the United States and used in the rolling stock frames and car shells that are not produced in the United States, the manufacturer shall maintain and provide upon request a mill certification that substantiates the origin of the steel or iron.

(4) TREATMENT OF WAIVED COMPONENTS AND SUBCOMPONENTS.—In this section, a component or subcomponent waived under subsection (b) shall be excluded from any part of the calculation required under subsection (b)(3)(A).

(5) ZERO-EMISSION VEHICLE DOMESTIC BATTERY CELL INCENTIVE.—The Secretary shall provide an additional 2.5 percent of domestic content to the total rolling stock domestic content percentage calculated under this section for any zero-emission vehicle that uses only battery cells for propulsion that are manufactured domestically.

(6) PROHIBITION ON DOUBLE COUNTING.—

(A) IN GENERAL.—No labor costs included in the cost of a component or subcomponent by the manufacturer of rolling stock may be treated as rolling stock assembly costs for purposes of calculating domestic content.

(B) VIOLATION.—A violation of this paragraph shall be treated as a false claim under subchapter III of chapter 37 of title 31.

(7) DEFINITION OF HIGHLY SKILLED LABOR COSTS.—In this subsection, the term "highly skilled labor costs"—

(A) means the apportioned value of direct wage compensation associated with final assembly activities of workers directly employed by a rolling stock original equipment manufacturer and directly associated with the final assembly activities of a rolling stock vehicle that advance the value or improve the condition of the end product;

(B) does not include any temporary or indirect activities or those hired via a third-party contractor or subcontractor;

(C) are limited to metalworking, fabrication, welding, electrical, engineering, and other technical activities requiring training;

(D) are not otherwise associated with activities required under section 661.11 of title 49, Code of Federal Regulations; and

(E) includes only activities performed in the United States and does not include that of foreign nationals providing assistance at a United States manufacturing facility.

(e) CERTIFICATION OF DOMESTIC SUPPLY AND DISCLOSURE.—

(1) CERTIFICATION OF DOMESTIC SUPPLY.—If the Secretary denies an application for a waiver under subsection (b), the Secretary shall provide to the applicant a written certification that—

(A) the steel, iron, or manufactured goods, as applicable, (referred to in this paragraph as the "item") is produced in the United States in a sufficient and reasonably available amount;

(B) the item produced in the United States is of a satisfactory quality; and

(C) includes a list of known manufacturers in the United States from which the item can be obtained.

(2) DISCLOSURE.—The Secretary shall disclose the waiver denial and the written certification to the public in an easily identifiable location on the website of the Department of Transportation.

(f) WAIVER PROHIBITED.—The Secretary may not make a waiver under subsection (b) for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(1) has an agreement with the United States Government under which the Secretary has waived the requirement of this section; and

(2) has violated the agreement by discriminating against goods to which this section applies that are produced in the United States and to which the agreement applies.

(g) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under title II of the INVEST in America Act if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(1) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this section applies but not produced in the United States; or

(2) represented that goods described in paragraph (1) were produced in the United States.

(h) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(i) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(j) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(k) STEEL AND IRON.—For purposes of this section, steel and iron meeting the requirements of section 661.5(b) of title 49, Code of Federal Regulations, may be considered produced in the United States.

(l) DEFINITION OF SMALL PURCHASE.—For purposes of determining whether a purchase qualifies for a general public interest waiver under subsection (b)(1), including under any regulation promulgated under such subsection, the term "small purchase" means a purchase of not more than $150,000.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—

(1) IN GENERAL.—The Secretary shall prescribe regulations requiring a preaward and postdelivery certification of a rolling stock vehicle that meets the requirements of this section and Government motor vehicle safety requirements to be eligible for a grant under this chapter. For compliance with this section—

(A) Federal inspections and review are required;

(B) a manufacturer certification is not sufficient; and

(C) a rolling stock vehicle that has been certified by the Secretary remains certified until the manufacturer makes a material change to the vehicle, or adjusts the cost of all components of the rolling stock, that reduces, by more than half, the percentage of domestic content above 70 percent.

(2) CERTIFICATION OF PERCENTAGE.—The Secretary may, at the request of a component or subcomponent manufacturer, certify the percentage of domestic content and place of manufacturing for a component or subcomponent.

(3) FREEDOM OF INFORMATION ACT.—In carrying out this subsection, the Secretary shall consistently apply the provisions of section 552 of title 5, including subsection (b)(4) of such section.

(4) NONCOMPLIANCE.—The Secretary shall prohibit recipients from procuring rolling stock, components, or subcomponents from a supplier that intentionally provides false information to comply with this subsection.

(n) SCOPE.—The requirements of this section apply to all contracts for a public transportation project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the public transportation project is funded with amounts made available to carry out this chapter.

(o) BUY AMERICA CONFORMITY.—The Secretary shall ensure that all Federal funds for new commuter rail projects shall comply with this section and shall not be subject to section 22905(a).

(p) AUDITS AND REPORTING OF WASTE, FRAUD, AND ABUSE.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct an annual audit on certifications under subsection (m) regarding compliance with Buy America.

(2) REPORT FRAUD, WASTE, AND ABUSE.—The Secretary shall display a "Report Fraud, Waste, and Abuse" button and link to Department of Transportation's Office of Inspector General Hotline on the Federal Transit Administration's Buy America landing page.

(3) CONTRACT REQUIREMENT.—The Secretary shall require all recipients who enter into contracts to purchase rolling stock with funds provided under this chapter to include in such contract information on how to contact the Department of Transportation's Office of Inspector General Hotline to report suspicions of fraud, waste, and abuse.

(q) PASSENGER MOTOR VEHICLES.—

(1) IN GENERAL.—Any domestically manufactured passenger motor vehicle shall be considered to be produced in the United States under this section.

(2) DOMESTICALLY MANUFACTURED PASSENGER MOTOR VEHICLE.—In this subsection, the term "domestically manufactured passenger motor vehicle" means any passenger motor vehicle, as such term is defined in section 32304(a) that—

(A) has under section 32304(b)(1)(B) its final assembly place in the United States; and

(B) the percentage (by value) of passenger motor equipment under section 32304(b)(1)(A) equals or exceeds 60 percent value added.

(r) ROLLING STOCK COMPONENTS AND SUBCOMPONENTS.—No component or subcomponent of rolling stock shall be treated as produced in the United States for purposes of subsection (b)(3) or determined to be of domestic origin under section 661.11 of title 49, Code of Federal Regulations, if the material inputs of such component or subcomponent were imported into the United States and the operations performed in the United States on the imported articles would not result in a change in the article's classification to chapter 86 or 87 of the Harmonized Tariff Schedule of the United States from another chapter or a new heading of any chapter from the heading under which the article was classified upon entry.

(s) TREATMENT OF STEEL AND IRON COMPONENTS AS PRODUCED IN THE UNITED STATES.—Notwithstanding any other provision of any law or any rule, regulation, or policy of the Federal Transit Administration, steel and iron components of a system, as defined in section 661.3 of title 49, Code of Federal Regulations, and of manufactured end products referred to in Appendix A of such section, may not be considered to be produced in the United States unless such components meet the requirements of section 661.5(b) of title 49, Code of Federal Regulations.

(t) REQUIREMENT FOR TRANSIT AGENCIES.—Notwithstanding the provisions of this section, if a transit agency accepts Federal funds, such agency shall adhere to the Buy America provisions set forth in this section when procuring rolling stock.

* * * * * * *

§ 5323. General provisions

(a) INTERESTS IN PROPERTY.—

(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

(C) just compensation under State or local law will be paid to the company for its franchise or property.

(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the ⟦urban area⟧ *urbanized area* in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) VIOLATIONS.—

(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

(3) EXCEPTIONS.—This subsection shall not apply to financial assistance under this chapter—

(A) in which the non-Federal share of project costs are provided from amounts received under a service agreement with a State or local social service agency or private social service organization pursuant to section 5307(d)(3)(E) or section 5311(g)(3)(C);

(B) provided to a recipient or subrecipient whose sole receipt of such assistance derives from section 5310; or

(C) provided to a recipient operating a fixed route service that is—

(i) for a period of less than 30 days;

(ii) accessible to the public;

(iii) contracted by a local government entity that provides local cost share to the recipient; and

(iv) not contracted for the purposes of a convention or on behalf of a convention and visitors bureau.

(4) GUIDELINES.—The Secretary shall publish guidelines for grant recipients and private bus operators that clarify when and how a transit agency may step back and provide the service in the event a registered charter provider does not contact the customer, provide a quote, or provide the service.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

(f) SCHOOLBUS TRANSPORTATION.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; *or*

[(2) pay incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team; or**]**

[(3)**]** *(2)* support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) ACQUIRING VEHICLES AND VEHICLE-RELATED EQUIPMENT OR FACILITIES.—

(A) VEHICLES.—A grant for a project to be assisted under this chapter that involves acquiring vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act is for 85 percent of the net project cost.

(B) VEHICLE-RELATED EQUIPMENT OR FACILITIES.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying

with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

(2) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

(C) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term "private provider of public transportation by vanpool" means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term "commuter highway vehicle or vanpool vehicle" means any vehicle—

(I) the seating capacity of which is at least 6 adults (not including the driver); and

(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

[(j) BUY AMERICA.—

[(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

[(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

[(A) applying paragraph (1) would be inconsistent with the public interest;

[(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

[(C) when procuring rolling stock (including train control, communication, traction power equipment, and rolling stock prototypes) under this chapter—

[(i) the cost of components and subcomponents produced in the United States—

[(I) for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock;

[(II) for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and

[(III) for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock; and

[(ii) final assembly of the rolling stock has occurred in the United States; or

[(D) including domestic material will increase the cost of the overall project by more than 25 percent.

[(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

[(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

[(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

[(ii) provide the public with a reasonable period of time for notice and comment.

[(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

[(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

[(5) ROLLING STOCK FRAMES OR CAR SHELLS.—In carrying out paragraph (2)(C) in the case of a rolling stock procurement receiving assistance under this chapter in which the average cost of a rolling stock vehicle in the procurement is more than $300,000, if rolling stock frames or car shells are not produced in the United States, the Secretary shall include in the calculation of the domestic content of the rolling stock the cost of steel or iron that is produced in the United States and used in the rolling stock frames or car shells.

[(6) CERTIFICATION OF DOMESTIC SUPPLY AND DISCLOSURE.—

[(A) CERTIFICATION OF DOMESTIC SUPPLY.—If the Secretary denies an application for a waiver under paragraph (2), the Secretary shall provide to the applicant a written certification that—

[(i) the steel, iron, or manufactured goods, as applicable, (referred to in this subparagraph as the "item") is produced in the United States in a sufficient and reasonably available amount;

[(ii) the item produced in the United States is of a satisfactory quality; and

[(iii) includes a list of known manufacturers in the United States from which the item can be obtained.

[(B) DISCLOSURE.—The Secretary shall disclose the waiver denial and the written certification to the public in an easily identifiable location on the website of the Department of Transportation.

[(7) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

[(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

[(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

[(8) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2015 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

[(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

[(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

[(9) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

[(10) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

[(11) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

[(12) STEEL AND IRON.—For purposes of this subsection, steel and iron meeting the requirements of section 661.5(b) of title 49, Code of Federal Regulations may be considered produced in the United States.

[(13) DEFINITION OF SMALL PURCHASE.—For purposes of determining whether a purchase qualifies for a general public interest waiver under paragraph (2)(A) of this subsection, including under any regulation promulgated under that paragraph, the term "small purchase" means a purchase of not more than $150,000.]

(j) REPORTING ACCESSIBILITY COMPLAINTS.—

(1) IN GENERAL.—The Secretary shall ensure that an individual who believes that he or she, or a specific class in which the individual belongs, has been subjected to discrimination on the basis of disability by a State or local governmental entity, private nonprofit organization, or Tribe that operates a public transportation service and is a recipient or subrecipient of funds under this chapter, may, by the individual or by an authorized representative, file a complaint with the Department of Transportation.

(2) PROCEDURES.—Not later than 1 year after the date of enactment of the INVEST in America Act, the Secretary shall implement procedures that allow an individual to submit a complaint described in paragraph (1) by phone, mail-in form, and online through the website of the Office of Civil Rights of the Federal Transit Administration.

(3) NOTICE TO INDIVIDUALS WITH DISABILITIES.—Not later than 12 months after the date of enactment of the INVEST in America Act, the Secretary shall require that each public transit provider and contractor providing paratransit services shall include on a publicly available website of the service provider, any related mobile device application, and online service—

(A) notice that an individual can file a disability-related complaint with the local transit agency and the process and any timelines for filing such a complaint;

(B) the telephone number, or a comparable electronic means of communication, for the disability assistance hotline of the Office of Civil Rights of the Federal Transit Administration;

(C) notice that a consumer can file a disability related complaint with the Office of Civil Rights of the Federal Transit Administration; and

(D) an active link to the website of the Office of Civil Rights of the Federal Transit Administration for an individual to file a disability-related complaint.

(4) INVESTIGATION OF COMPLAINTS.—Not later than 60 days after the last day of each fiscal year, the Secretary shall publish a report that lists the disposition of complaints described in paragraph (1), including—

(A) the number and type of complaints filed with Department of Transportation;

(B) the number of complaints investigated by the Department;

(C) the result of the complaints that were investigated by the Department including whether the complaint was resolved—

(i) informally;

(ii) by issuing a violation through a noncompliance Letter of Findings; or

(iii) by other means, which shall be described; and

(D) if a violation was issued for a complaint, whether the Department resolved the noncompliance by—

(i) reaching a voluntary compliance agreement with the entity;

(ii) referring the matter to the Attorney General; or

(iii) by other means, which shall be described.

(5) REPORT.—The Secretary shall, upon implementation of this section and annually thereafter, submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and make publicly available a report containing the information collected under this section.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) be included in the planning for those services.

(l) RELATIONSHIP TO OTHER LAWS.—

(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not

be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

[(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving rural areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.]

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with bid specifications requirements of grant recipients under this chapter. Under this subsection, grantee inspections and review are required, and a manufacturer certification is not sufficient.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

(1) the incidental use does not interfere with the recipient's public transportation operations;

(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(4) private entities pay all applicable excise taxes on fuel.

(q) CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environ-

mental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law.

(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

[(r) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered.]

(r) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—

(1) IN GENERAL.—A recipient of assistance under this chapter may not deny reasonable access for a private or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental or beneficial to existing public transportation services must be considered. A recipient shall respond to any request for reasonable access within 90 days of the receipt of the request.

(2) RESPONSE TO REQUEST.—

(A) IN GENERAL.—If a recipient of assistance under this chapter fails to respond to a request within the 90-day period described in paragraph (1), the operator may seek assistance from the Secretary to obtain a response.

(B) DENIAL OF ACCESS.—If a recipient of assistance under this chapter denies access to a private intercity or charter transportation operator based on the reasonable access standards provided in paragraph (1), the recipient shall provide, in writing, the reasons for the denial.

(s) VALUE CAPTURE REVENUE ELIGIBLE FOR LOCAL SHARE.—Notwithstanding any other provision of law, a recipient of assistance under this chapter may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under this chapter.

[(t) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in a fiscal year, the Secretary is prohibited by law from enforcing regulations related to charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency that during fiscal year 2008 was both initially granted a 60-day period to come into compliance with such part 604, and then was subsequently granted an exception from such part—

[(1) the transit agency shall be precluded from receiving its allocation of urbanized area formula grant funds for such fiscal year; and

[(2) any amounts withheld pursuant to paragraph (1) shall be added to the amount that the Secretary may apportion under section 5336 in the following fiscal year.]

(t) WAIVERS AND DEFERRALS; ADMINISTRATIVE OPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall have the authority to waive, exempt, defer, or establish a simplified level of compliance for recipients of assistance under this chapter that operate 10 or fewer vehicles in service, or that receive financial assistance under both sections 5307 and 5311 of this chapter.

(2) GUIDANCE REQUIRED.—Not later than 180 days of enactment of the INVEST in America Act, the Secretary shall publish guidance for recipients of assistance under this chapter that operate 10 or fewer buses in service or that receive financial assistance under both of sections 5307 and 5311 concerning—

(A) which specific requirements may be considered for waivers, exemptions, deferrals, or simplified levels of compliance by recipients of assistance described in paragraph (1);

(B) the process by which recipients of assistance described in paragraph (1) may request such waivers, exemptions, deferrals, or simplified levels of compliance;

(C) the criteria by which the Secretary shall evaluate and act upon such requests;

(D) the terms and conditions the Secretary shall attach to any waiver, exemption, deferral or simplified level of compliance that is awarded under paragraph (1);

(E) actions the Secretary may take if a recipient fails to comply the terms and conditions attached to a waiver, exemption, deferral, or simplified level of compliance that has been awarded under paragraph (1); and

(F) the circumstances under which the Secretary may use this paragraph to award a waiver, exemption, deferral or simplified level of compliance to a recipient of assistance under this chapter and described in this paragraph.

(3) MAINTAIN SAFETY.—The Secretary shall not to take any action under this subsection that would degrade safety to lives or property.

(4) REPORT.—The Secretary shall submit to the Committee of Banking, Housing, and Urban Affairs of the Senate and the Committee of Transportation and Infrastructure of the House of Representatives an annual report detailing the requests and actions that have been taken under this subsection in the preceding 12 months.

(u) LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (5), financial assistance made available under this chapter shall not be used in awarding a contract or subcontract to an entity on or after the date of enactment of this subsection for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock—

(A) is incorporated in or has manufacturing facilities in the United States; and

(B) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that—

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(2) EXCEPTION.—For purposes of paragraph (1), the term "otherwise related legally or financially" does not include a minority relationship or investment.

(3) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with the obligations of the United States under international agreements.

(4) CERTIFICATION FOR RAIL ROLLING STOCK.—

(A) IN GENERAL.—Except as provided in paragraph (5), as a condition of financial assistance made available in a fiscal year under section 5337, a recipient that operates rail fixed guideway service shall certify in that fiscal year that the recipient will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in paragraph (1).

(B) SEPARATE CERTIFICATION.—The certification required under this paragraph shall be in addition to any certification the Secretary establishes to ensure compliance with the requirements of paragraph (1).

(5) SPECIAL RULES.—

(A) PARTIES TO EXECUTED CONTRACTS.—This subsection, including the certification requirement under paragraph (4), shall not apply to the award of any contract or subcontract ⟦made by a public transportation agency with a rail rolling stock manufacturer described in paragraph (1)⟧ *as of December 20, 2019, including options and other requirements tied to these contracts or subcontracts, made by a public transportation agency with a restricted rail rolling stock manufacturer* if the manufacturer and the public transportation agency have executed a contract for rail rolling stock before the date of enactment of this subsection.

(B) ROLLING STOCK.—Except as provided in subparagraph (C) and for a contract or subcontract that is not described in subparagraph (A), this subsection, including the certification requirement under paragraph (4), shall not

apply to the award of a contract or subcontract made by a public transportation agency with any rolling stock manufacturer for the 2-year period beginning on or after the date of enactment of this subsection.

(C) EXCEPTION.—Subparagraph (B) shall not apply to the award of a contract or subcontract made by the Washington Metropolitan Area Transit Authority.

(v) CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.—

(1) CERTIFICATION.—As a condition of financial assistance made available under this chapter, a recipient that operates a rail fixed guideway public transportation system shall certify that the recipient has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks.

(2) COMPLIANCE.—For the process required under paragraph (1), a recipient of assistance under this chapter shall—

(A) utilize the approach described by the voluntary standards and best practices developed under section 2(c)(15) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(15)), as applicable;

(B) identify hardware and software that the recipient determines should undergo third-party testing and analysis to mitigate cybersecurity risks, such as hardware or software for rail rolling stock under proposed procurements; and

(C) utilize the approach described in any voluntary standards and best practices for rail fixed guideway public transportation systems developed under the authority of the Secretary of Homeland Security, as applicable.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority of—

(A) the Secretary of Homeland Security to publish or ensure compliance with requirements or standards concerning cybersecurity for rail fixed guideway public transportation systems; or

(B) the Secretary of Transportation under section 5329 to address cybersecurity issues as those issues relate to the safety of rail fixed guideway public transportation systems.

(w) THRESHOLD FOR THE SALE OF TRANSIT VEHICLES AFTER SERVICE LIFE.—Notwithstanding any other provision of law or regulation, for programs under this chapter the threshold amount for transit vehicles after the service life is reached shall be 20 percent of the original acquisition cost of the purchased equipment. For transit vehicles sold for an amount above such amount, the threshold amount shall be retained by the transit agency upon sale of the asset for use by the transit agency for the purpose or operating or capital expenditures, and the remainder shall be remitted to the Secretary and shall be deposited into the Mass Transit Account of the Highway Trust Fund. If such a vehicle is sold for an amount

below or equal to the threshold amount, the transit agency shall retain all funds from the sale.

(x) BUS PROCUREMENT STREAMLINING.—

(1) IN GENERAL.—The Secretary may only obligate amounts for acquisition of buses under this chapter to a recipient that issues a request for proposals for an open market procurement that meets the following criteria:

(A) Such request for proposals is limited to performance specifications, except for components or subcomponents identified in the negotiated rulemaking carried out pursuant to this subsection.

(B) Such request for proposals does not seek any alternative design or manufacture specification of a bus offered by a manufacturer, except to require a component or subcomponent identified in the negotiated rulemaking carried out pursuant to this subsection.

(2) SPECIFIC BUS COMPONENT NEGOTIATED RULEMAKING.—

(A) INITIATION.—Not later than 120 days after the date of enactment of the INVEST in America Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and issue such regulations as are necessary to establish as limited a list as is practicable of bus components and subcomponents described in subparagraph (B).

(B) LIST OF COMPONENTS.—The regulations required under subparagraph (A) shall establish a list of bus components and subcomponents that may be specified in a request for proposals described in paragraph (1) by a recipient. The Secretary shall ensure the list is limited in scope and limited to only components and subcomponents that cannot be selected with performance specifications to ensure interoperability.

(C) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 18 months after such date of enactment.

(D) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this paragraph shall have a maximum of 11 members limited to representatives of the Department of Transportation, urban and rural recipients (including State government recipients), and transit vehicle manufacturers.

(E) EXTENSION OF DEADLINES.—A deadline set forth in subparagraph (C) may be extended up to 180 days if the negotiated rulemaking committee referred to in subparagraph (D) concludes that the committee cannot meet the deadline and the Secretary so notifies the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(3) SAVINGS CLAUSE.—Nothing in this section shall be construed to provide additional authority for the Secretary to re-

strict what a bus manufacturer offers to sell to a public transportation agency.

(y) URBANIZED AREAS FOLLOWING A MAJOR DISASTER.—

(1) DEFINED TERM.—In this subsection, the term "decennial census date" has the meaning given the term in section 141(a) of title 13.

(2) URBANIZED AREA MAJOR DISASTER POPULATION CRITERIA.—Notwithstanding section 5302, for purposes of this chapter, the Secretary shall treat an area as an urbanized area for the period described in paragraph (3) if—

(A) a major disaster was declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) for the area during the 3-year period preceding the decennial census date for the 2010 decennial census or for any subsequent decennial census;

(B) the area was defined and designated as an "urbanized area" by the Secretary of Commerce in the decennial census immediately preceding the major disaster described in subparagraph (A); and

(C) the population of the area fell below 50,000 as a result of the major disaster described in subparagraph (A).

(3) COVERED PERIOD.—The Secretary shall treat an area as an urbanized area under paragraph (2) during the period—

(A) beginning on—

(i) in the case of a major disaster described in paragraph (2)(A) that occurred during the 3-year period preceding the decennial census date for the 2010 decennial census, October 1 of the first fiscal year that begins after the date of enactment of this subsection; or

(ii) in the case of any other major disaster described in paragraph (2)(A), October 1 of the first fiscal year—

(I) that begins after the decennial census date for the first decennial census conducted after the major disaster; and

(II) for which the Secretary has sufficient data from that census to determine that the area qualifies for treatment as an urbanized area under paragraph (2); and

(B) ending on the day before the first fiscal year—

(i) that begins after the decennial census date for the second decennial census conducted after the major disaster described in paragraph (2)(A); and

(ii) for which the Secretary has sufficient data from that census to determine which areas are urbanized areas for purposes of this chapter.

(4) POPULATION CALCULATION.—An area treated as an urbanized area under this subsection shall be assigned the population and square miles of the urbanized area designated by the Secretary of Commerce in the most recent decennial census conducted before the major disaster described in paragraph (2)(A).

(5) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect apportionments made under this chapter before the date of enactment of this subsection.

§ 5324. Public transportation emergency relief program

(a) DEFINITION.—In this section the following definitions shall apply:

(1) ELIGIBLE OPERATING COSTS.—The term "eligible operating costs" means costs relating to—

(A) evacuation services;

(B) rescue operations;

(C) temporary public transportation service; or

(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

(2) EMERGENCY.—The term "emergency" means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

(c) COORDINATION OF EMERGENCY FUNDS.—

(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

(1) subject to the terms and conditions the Secretary determines are necessary; and

(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

(A) paragraph (2); or

(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.

(f) IMPOSITION OF DEADLINE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may not require any project funded under this section to advance to the construction obligation stage before the date that is the last day of the sixth fiscal year after the later of—

(A) the date on which the Governor declared the emergency, as described in subsection (d)(1)(A); or

(B) the date on which the President declared the emergency to be a major disaster, as described in such subsection.

(2) EXTENSION OF DEADLINE.—If the Secretary imposes a deadline for advancement to the construction obligation stage pursuant to paragraph (1), the Secretary may, upon the request of the Governor of the State, issue an extension of not more than 1 year to complete such advancement, and may issue additional extensions after the expiration of any extension, if the Secretary determines the Governor of the State has provided suitable justification to warrant such an extension.

(g) IMPOSITION OF DEADLINE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may not require any project funded pursuant to this section to advance to the construction obligation stage before the date that is the last day of the sixth fiscal year after the later of—

(A) the date on which the Governor declared the emergency, as described in subsection (a)(2); or

(B) the date on which the President declared a major disaster, as described in such subsection.

(2) EXTENSION OF DEADLINE.—If the Secretary imposes a deadline for advancement to the construction obligation stage pursuant to paragraph (1), the Secretary may, upon the request of the Governor of the State, issue an extension of not more than 1 year to complete such advancement, and may issue additional extensions after the expiration of any extension, if the Secretary determines the Governor of the State has provided suitable justification to warrant an extension.

* * * * * * *

§ 5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts;

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary quarterly; and

(13) safety and security management.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section ⟦5338(f)⟧ *5338(d)* with access to the construction sites and records of the recipient when reasonably necessary.

(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

(1) a definition of "major capital project" for section ⟦5338(f)⟧ *5338(d)* that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle;

(2) a requirement that oversight—

(A) begin during the project development phase of a project, unless the Secretary finds it more appropriate to begin the oversight during another phase of the project, to maximize the transportation benefits and cost savings associated with project management oversight; and

(B) be limited to quarterly reviews of compliance by the recipient with the project management plan approved under subsection (b) unless the Secretary finds that the recipient requires more frequent oversight because the recipient has failed to meet the requirements of such plan and the project may be at risk of going over budget or becoming behind schedule; and

(3) a process for recipients that the Secretary has found require more frequent oversight to return to quarterly reviews for purposes of paragraph (2)(B).

SEC. 5328. Transit-supportive communities

(a) ESTABLISHMENT.—The Secretary shall establish within the Federal Transit Administration, an Office of Transit-Supportive Communities to make grants, provide technical assistance, and assist in the coordination of transit and housing policies within the Federal Transit Administration, the Department of Transportation, and across the Federal Government.

(b) TRANSIT ORIENTED DEVELOPMENT PLANNING GRANT PROGRAM.—

(1) DEFINITION.—In this subsection the term "eligible project" means—

(A) a new fixed guideway capital project or a core capacity improvement project as defined in section 5309;

(B) an existing fixed guideway system, or an existing station that is served by a fixed guideway system; or

(C) the immediate corridor along the highest 25 percent of routes by ridership as demonstrated in section 5336(b)(2)(B).

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State, local governmental authority, or metropolitan planning organization to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes or the grant application;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State, local governmental authority, or metropolitan planning organization that desires to participate in the program under this subsection shall submit to the Secretary an application that contains at a minimum—

(A) an identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

(D) proposed performance criteria for the development and implementation of the comprehensive plan;

(E) a description of how the project will reduce and mitigate social and economic impacts on existing residents and businesses vulnerable to displacement; and

(F) identification of—

(i) partners;

(ii) availability of and authority for funding; and

(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

(4) COST SHARE.—A grant under this subsection shall not exceed an amount in excess of 80 percent of total project costs, except that a grant that includes an affordable housing component shall not exceed an amount in excess of 90 percent of total project costs.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States, local governmental authorities, and metropolitan planning organizations in the planning and development of transit-oriented development projects and transit supportive corridor policies, including—

(1) the siting, planning, financing, and integration of transit-oriented development projects;

(2) the integration of transit-oriented development and transit-supportive corridor policies in the preparation for and development of an application for funding under section 602 of title 23;

(3) the siting, planning, financing, and integration of transit-oriented development and transit supportive corridor policies associated with projects under section 5309;

(4) the development of housing feasibility assessments as allowed under section 5309(g)(3)(B);

(5) the development of transit-supportive corridor policies that promote transit ridership and transit-oriented development;

(6) the development, implementation, and management of land value capture programs; and

(7) the development of model contracts, model codes, and best practices for the implementation of transit-oriented development projects and transit-supportive corridor policies.

(d) VALUE CAPTURE POLICY REQUIREMENTS.—

(1) VALUE CAPTURE POLICY.—Not later than October 1 of the fiscal year that begins 2 years after the date of enactment of this section, the Secretary, in collaboration with State departments of transportation, metropolitan planning organizations, and regional council of governments, shall establish voluntary and consensus-based value capture standards, policies, and best practices for State and local value capture mechanisms that promote greater investments in public transportation and affordable transit-oriented development.

(2) REPORT.—Not later than 15 months after the date of enactment of this section, the Secretary shall make available to the public a report cataloging examples of State and local laws and policies that provide for value capture and value sharing that promote greater investment in public transportation and affordable transit-oriented development.

(d) EQUITY.—In providing technical assistance under subsection (c), the Secretary shall incorporate strategies to promote equity for underrepresented and underserved communities, including—

(1) preventing displacement of existing residents and businesses;

(2) mitigating rent and housing price increases;

(3) incorporating affordable rental and ownership housing in transit-oriented development;

(4) engaging under-served, limited English proficiency, low income, and minority communities in the planning process;

(5) fostering economic development opportunities for existing residents and businesses; and

(6) targeting affordable housing that help lessen homelessness.

(d) AUTHORITY TO REQUEST STAFFING ASSISTANCE.—In fulfilling the duties of this section, the Secretary shall, as needed, request staffing and technical assistance from other Federal agencies, programs, administrations, boards, or commissions.

(e) REVIEW EXISTING POLICIES AND PROGRAMS.—Not later than 24 months after the date of enactment of this section, the Secretary shall review and evaluate all existing policies and programs within the Federal Transit Administration that support or promote transit-oriented development to ensure their coordination and effectiveness relative to the goals of this section.

(f) REPORTING.—Not later than February 1 of each year beginning the year after the date of enactment of this section, the Secretary shall prepare a report detailing the grants and technical assistance provided under this section, the number of affordable housing units constructed or planned as a result of projects funded in this section, and the number of affordable housing units constructed or planned as a result of a property transfer under section 5334(h)(1). The report shall be provided to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(g) SAVINGS CLAUSE.—Nothing in this section authorizes the Secretary to provide any financial assistance for the construction of housing.

§ 5329. Public transportation safety program

(a) DEFINITION.—In this section, the term "recipient" means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

(A) safety performance criteria for all modes of public transportation;

(B) the definition of the term "state of good repair" established under section 5326(b);

(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board; **[**and**]**

(II) recommendations of, and best practices standards developed by, the public transportation industry**[**;**]***; and*

(III) innovations in driver assistance technologies and driver protection infrastructure where appropriate, and a reduction in visibility impairments that contribute to pedestrian fatalities.

(D) minimum safety standards to ensure the safe operation of public transportation systems that—

(i) are not related to performance standards for public transportation vehicles developed under subparagraph (C); and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board;

(II) best practices standards developed by the public transportation industry;

(III) any minimum safety standards or performance criteria being implemented across the public transportation industry;

(IV) relevant recommendations from the report under section 3020 of the Federal Public Transportation Act of 2015; and

(V) any additional information that the Secretary determines necessary and appropriate; and

(E) a public transportation safety certification training program, as described in subsection (c).

(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient or State, as described in paragraph (3), shall certify that the recipient or State has established a comprehensive agency safety plan that includes, at a minimum—

(A) a requirement that *the safety committee established under paragraph (4), and subsequently,* the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

(C) strategies to minimize the exposure of the **[**public, personnel, and property**]** *public and personnel to injuries, assaults, and fatalities, and strategies to minimize the exposure of property* to hazards and unsafe conditions;

(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

[(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

[(i) the completion of a safety training program; and

[(ii) continuing safety education and training.]

(G) a comprehensive staff training program for the operations and maintenance personnel and personnel directly responsible for safety of the recipient that includes—

(i) the completion of a safety training program;

(ii) continuing safety education and training; and

(iii) de-escalation training;

(H) a requirement that the safety committee only approve a safety plan under subparagraph (A) if such plan stays within such recipient's fiscal budget; and

(I) a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers using data submitted to the National Transit Database, including—

(i) a reduction of vehicular and pedestrian accidents involving buses that includes measures to reduce visibility impairments for bus operators that contribute to accidents, including retrofits to buses in revenue service and specifications for future procurements that reduce visibility impairments; and

(ii) transit worker assault mitigation, including the deployment of assault mitigation infrastructure and technology on buses, including barriers to restrict the unwanted entry of individuals and objects into bus operators' workstations when a recipient's risk analysis performed by the safety committee established in paragraph (4) determines that such barriers or other measures would reduce assaults on and injuries to transit workers; and

[(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.]

(2) SAFETY COMMITTEE PERFORMANCE MEASURES.—

(A) IN GENERAL.—The safety committee described in paragraph (4) shall establish performance measures for the risk reduction program in paragraph (1)(I) using a 3-year rolling average of the data submitted by the recipient to the National Transit Database.

(B) SAFETY SET ASIDE.—With respect to a recipient serving an urbanized area that receives funds under section 5307, such recipient shall allocate not less than 0.75 percent of such funds to projects eligible under 5307.

(C) FAILURE TO MEET PERFORMANCE MEASURES.—Any recipient that receives funds under section 5307 that does not meet the performance measures established in subparagraph (A) shall allocate the amount made available in subparagraph (B) in the following fiscal year to projects described in subparagraph (D).

(D) ELIGIBLE PROJECTS.—Funds set aside under this paragraph shall be used for projects that are reasonably likely to meet the performance measures established in subparagraph (A), including modifications to rolling stock and de-escalation training.

(3) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN DRAFTING AND CERTIFICATION.—

(A) SECTION 5311.—For a recipient receiving assistance under section 5311, a State safety plan may be drafted and certified by the recipient or a State.

(B) SECTION 5307.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule designating recipients of assistance under section 5307 that are small public transportation providers or systems that may have their State safety plans drafted or certified by a State.

(4) SAFETY COMMITTEE.—For purposes of the approval process of an agency safety plan under paragraph (1), the safety committee shall be convened by a joint labor-management process and consist of an equal number of—

(A) frontline employee representatives, selected by the labor organization representing the plurality of the frontline workforce employed by the recipient or if applicable a contractor to the recipient; and

(B) employer or State representatives.

(e) STATE SAFETY OVERSIGHT PROGRAM.—

(1) APPLICABILITY.—This subsection applies only to eligible States.

(2) DEFINITION.—In this subsection, the term "eligible State" means a State that has—

(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

(B) adopts and enforces Federal and relevant State laws on rail fixed guideway public transportation safety;

(C) establishes a State safety oversight agency;

(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

(4) STATE SAFETY OVERSIGHT AGENCY.—

(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

(i) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

(ii) does not directly provide public transportation services in an area with a rail fixed guideway public transportation system subject to the requirements of this section;

(iii) does not employ any individual who is also responsible for the administration of rail fixed guideway public transportation programs subject to the requirements of this section;

(iv) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

(v) has investigative*, inspection,* and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

(vi) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

(vii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

(I) the Federal Transit Administration;

(II) the Governor of the eligible State; and

(III) the board of directors, or equivalent entity, of any rail fixed guideway public transpor-

tation system that the State safety oversight agency oversees.

(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

(5) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

(6) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to eligible States to develop or carry out State safety oversight programs under this subsection. Grant funds may be used for program operational and administrative expenses, including employee training activities.

(B) APPORTIONMENT.—

(i) FORMULA.—The amount made available for State safety oversight under section 5336(h) shall be apportioned among eligible States under a formula to be established by the Secretary. Such formula shall take into account fixed guideway vehicle revenue miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each eligible State.

(ii) ADMINISTRATIVE REQUIREMENTS.—Grant funds apportioned to States under this paragraph shall be subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and shall be subject to the requirements

of this chapter as the Secretary determines appropriate.

(C) GOVERNMENT SHARE.—

(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

(I) any Federal funds;

(II) any funds received from a public transportation agency; or

(III) any revenues earned by a public transportation agency.

(iv) SAFETY TRAINING PROGRAM.—Recipients of funds made available to carry out sections 5307 and 5311 may use not more than 0.5 percent of their formula funds to pay not more than 80 percent of the cost of participation in the public transportation safety certification training program established under subsection (c), by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

(7) CERTIFICATION PROCESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall determine whether or not each State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

(B) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall issue a certification to each eligible State that the Secretary determines under subparagraph (A) adequately meets the requirements of this subsection, and shall issue a denial of certification to each eligible State that the Secretary determines under subparagraph (A) does not adequately meet the requirements of this subsection.

(C) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection and denies certification, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

(D) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety

oversight program is not sufficient to certify the program, the Secretary—

(i) shall notify the Governor of the eligible State of such denial of certification and failure to adequately modify the program, and shall request that the Governor take all possible actions to correct deficiencies in the program to ensure the certification of the program; and

(ii) may—

(I) withhold funds available under paragraph (6) in an amount determined by the Secretary;

(II) withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title, until the State safety oversight program has been certified; or

(III) require fixed guideway public transportation systems under such State safety oversight program to provide up to 100 percent of Federal assistance made available under this chapter only for safety-related improvements on such systems, until the State safety oversight program has been certified.

(8) FEDERAL SAFETY MANAGEMENT.—

(A) IN GENERAL.—If the Secretary determines that a State safety oversight program is not being carried out in accordance with this section, has become inadequate to ensure the enforcement of Federal safety regulation, or is incapable of providing adequate safety oversight consistent with the prevention of substantial risk of death, or personal injury, the Secretary shall administer the State safety oversight program until the eligible State develops a State safety oversight program certified by the Secretary in accordance with this subsection.

(B) TEMPORARY FEDERAL OVERSIGHT.—In making a determination under subparagraph (A), the Secretary shall—

(i) transmit to the eligible State and affected recipient or recipients, a written explanation of the determination or subsequent finding, including any intention to withhold funding under this section, the amount of funds proposed to be withheld, and if applicable, a formal notice of a withdrawal of State safety oversight program approval; and

(ii) require the State to submit a State safety oversight program or modification for certification by the Secretary that meets the requirements of this subsection.

(C) FAILURE TO CORRECT.—If the Secretary determines in accordance with subparagraph (A), that a State safety oversight program or modification required pursuant to subparagraph (B)(ii), submitted by a State is not sufficient, the Secretary may—

(i) withhold funds available under paragraph (6) in an amount determined by the Secretary;

(ii) beginning 1 year after the date of the determination, withhold not more than 5 percent of the amount required to be appropriated for use in a State or an urbanized area in the State under section 5307, until the State safety oversight program or modification has been certified; and

(iii) use any other authorities authorized under this chapter considered necessary and appropriate.

(D) ADMINISTRATIVE AND OVERSIGHT ACTIVITIES.—To carry out administrative and oversight activities authorized by this paragraph, the Secretary may use grant funds apportioned to an eligible State, under paragraph (6), to develop or carry out a State safety oversight program.

(9) EVALUATION OF PROGRAM AND ANNUAL REPORT.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, and shall submit on or before July 1 of each year to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

(A) the amount of funds apportioned to each eligible State; and

(B) the certification status of each State safety oversight program, including what steps a State program that has been denied certification must take in order to be certified.

(10) FEDERAL OVERSIGHT.—The Secretary shall—

(A) oversee the implementation of each State safety oversight program under this subsection;

(B) audit the operations of each State safety oversight agency at least once triennially; and

(C) issue rules to carry out this subsection.

(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient or the public transportation industry generally;

(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

(B) the Attorney General—

(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

(7) issue rules to carry out this section.

(g) ENFORCEMENT ACTIONS.—

(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

(A) issuing directives;

(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

(C) imposing more frequent reporting requirements;

(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects; and

(E) withholding not more than 25 percent of financial assistance under section 5307.

(2) USE OR WITHHOLDING OF FUNDS.—

(A) IN GENERAL.—The Secretary may require the use of funds or withhold funds in accordance with paragraph (1)(D) or (1)(E) only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

(B) NOTICE.—Before withholding funds from a recipient, the Secretary shall provide to the recipient—

(i) written notice of a violation and the amount proposed to be withheld; and

(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

(h) RESTRICTIONS AND PROHIBITIONS.—

(1) RESTRICTIONS AND PROHIBITIONS.—The Secretary shall issue restrictions and prohibitions by whatever means are determined necessary and appropriate, without regard to section 5334(c), if, through testing, inspection, investigation, audit, or

research carried out under this chapter, the Secretary determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, exist such that there is a substantial risk of death or personal injury.

(2) NOTICE.—The notice of restriction or prohibition shall describe the condition or practice, the subsequent risk and the standards and procedures required to address the restriction or prohibition.

(3) CONTINUED AUTHORITY.—Nothing in this subsection shall be construed as limiting the Secretary's authority to maintain a restriction or prohibition for as long as is necessary to ensure that the risk has been substantially addressed.

(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

(j) ACTIONS UNDER STATE LAW.—

(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

(A) a Federal standard of care established by a regulation or order issued by the Secretary under this section; or

(B) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary.

(2) EFFECTIVE DATE.—This subsection shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

(3) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

(k) NATIONAL PUBLIC TRANSPORTATION SAFETY REPORT.—Not later than 3 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

(2) describes the effect on public transportation safety of activities carried out using grants under this section.

* * * * * * *

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed

with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), [5328, 5337, and 5338(b)] *and 5337* of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), [5328, 5337, and 5338(b)] *and 5337* shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV–90–X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

§ 5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project that receives Federal financial assistance under this chapter (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter;

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote public transportation and credit amounts collected to the appropriation concerned; and

(11) issue regulations as necessary to carry out the purposes of this chapter.

(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States as described in section 5329, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter. The Secretary may not regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.

(c) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the

Committee on Appropriations of the House of Representatives on the day the agenda is published.

(2) Except for emergency regulations, the Secretary shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary shall comply with this subsection when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(d) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(e) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(f) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(g) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary may deal with property acquired under paragraph (3) or (4) of subsection (a) in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) TRANSFER OF ASSETS NO LONGER NEEDED.—[(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than public transportation only if the Secretary decides—

[(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

[(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

[(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

[(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.]

(1) IN GENERAL.—If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which such asset was acquired, the Secretary may authorize the recipient to transfer such asset to—

(A) a local governmental authority to be used for a public purpose with no further obligation to the Government if the Secretary decides—

(i) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(ii) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(iii) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(iv) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land; or

(B) a local governmental authority, nonprofit organization, or other third party entity to be used for the purpose of transit-oriented development with no further obligation to the Government if the Secretary decides—

(i) the asset is a necessary component of a proposed transit-oriented development project;

(ii) the transit-oriented development project will increase transit ridership;

(iii) at least 40 percent of the housing units offered in the transit-oriented development, including housing units owned by nongovernmental entities, are legally binding affordability restricted to tenants with incomes at or below 60 percent of the area median income and/or owners with incomes at or below 60 percent the area median income;

(iv) the asset will remain in use as described in this section for at least 30 years after the date the asset is transferred; and

(v) with respect to a transfer to a third party entity—

(I) a local government authority or nonprofit organization is unable to receive the property; and

(II) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors.

(III) the third party has demonstrated a satisfactory history of construction or operating an affordable housing development.

(2) A decision under paragraph (1) must be in writing and include the reason for the decision.

(3) This subsection is in addition to any other law related to using and disposing of a facility or equipment under an assistance agreement.

(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for public transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

(C) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(i) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a public transportation project under title 23 may be transferred to and administered by the Secretary under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for public transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(j) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(k) AGENCY STATEMENTS.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Adminis-

tration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.

(2) BINDING OBLIGATION DEFINED.—In this subsection, the term "binding obligation" means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(l) DISPOSITION OF ASSETS BEYOND USEFUL LIFE.—

(1) IN GENERAL.—If a recipient, or subrecipient, for assistance under this chapter disposes of an asset with a current market value, or proceed from the sale of such asset, acquired under this chapter at least in part with such assistance, after such asset has reached the useful life of such asset, the Secretary shall allow the recipient, or subrecipient, to use the proceeds attributable to the Federal share of such asset calculated under paragraph (3) for capital projects under section 5307, 5310, or 5311.

(2) MINIMUM VALUE.—This subsection shall only apply to assets with a current market value, or proceeds from sale, of at least $5,000.

(3) CALCULATION OF FEDERAL SHARE ATTRIBUTABLE.—The proceeds attributable to the Federal share of an asset described in paragraph (1) shall be calculated by multiplying—

(A) the current market value of, or the proceeds from the disposition of, such asset; by

(B) the Federal share percentage for the acquisition of such asset at the time of acquisition of such asset.

§ 5335. National transit database

(a) NATIONAL TRANSIT DATABASE.—To help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning, the Secretary shall maintain a reporting system, using uniform categories to accumulate public transportation financial, operating, and asset condition information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision*, including information on transit routes and ridership on those routes*. The Secretary may request and receive appropriate information from any source.

(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311 only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to a transit asset inventory or condition assessment conducted by the recipient*, any data on each assault on a transit worker, and pedestrian injuries and fatalities as a result of an impact with a bus. Each of the*

data sets shall be publicly reported without aggregating the data with other safety data.

§ 5336. Apportionment of appropriations for formula grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(5) to carry out section 5307—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, "fixed guideway vehicle revenue miles" and "fixed guideway directional route miles" include passenger ferry operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) ⟦95.61 percent⟧ *95 percent* of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the ⟦95.61 percent⟧ *95 percent* apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

(ii) 40 percent of the ⟦95.61 percent⟧ *95 percent* apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) ⟦4.39 percent⟧ *5 percent* of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger miles traveled *in the highest 25 percent of routes by ridership* multiplied by the number of fixed guideway ⟦vehicle passenger miles traveled for each dollar of operating cost in an area⟧ *vehicles operating in peak revenue service per hour in the highest 25 percent of routes by ridership*; divided by

(ii) the total number of fixed guideway vehicle passenger miles traveled *in the highest 25 percent of routes by ridership* multiplied by the total number of fixed guideway ⟦vehicle passenger miles traveled for each dollar of operating cost in all areas⟧ *vehicles operating in peak revenue service per hour in the highest 25 percent of routes by ridership*.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

(E) For purposes of subparagraph (A) and section 5337(c)(3), the Secretary shall deem to be attributable to an urbanized area not less than 27 percent of the fixed guideway vehicle revenue miles or fixed guideway directional route miles in the public transportation system of a recipient that are located outside the urbanized area for which the recipient receives funds, in addition to the fixed guideway vehicle revenue miles or fixed guideway directional route miles of the recipient that are located inside the urbanized area.

(3) SPECIAL RULE.—For fiscal year 2022, the percentage—

(A) in paragraph (2)(A) in the matter preceding clause (i) shall be treated as 100 percent; and

(B) in paragraph (2)(B) in the matter preceding clause (i) shall be treated as 0 percent.

(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) ⟦90.8 percent⟧ *90 percent* of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the [90.8 percent] *90 percent* apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(B) 26.61 percent of the [90.8 percent] *90 percent* apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(2) [9.2 percent] *8 percent* of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least [200,000] *500,000* is entitled to receive an amount equal to—

[(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

[(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.]

(A) the number of bus passenger miles traveled on the highest 25 percent of routes by ridership multiplied by the number of buses operating in peak revenue service per hour on the highest 25 percent of routes by ridership; divided by

(B) the total number of bus passenger miles traveled on the highest 25 percent of routes by ridership multiplied by the total number of buses operating in peak revenue service per hour on the highest 25 percent of routes by ridership in all areas.

(3) 2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 and less than 500,000 is entitled to receive an amount using the formula in paragraph (1).

(4) For fiscal year 2022, the percentage—

(A) in paragraph (1) in the matter preceding subparagraph (A) shall be treated as 100 percent;

(B) in paragraph (2) in the matter preceding subparagraph (A) shall be treated as 0 percent; and

(C) in paragraph (3) shall be treated as 0 percent.

(d) DATE OF APPORTIONMENT.—The Secretary shall—

(1) apportion amounts appropriated under section ⟦5338(a)(2)(C)⟧ *5338(a)(2)(B)* of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) notwithstanding paragraph (1), apportion amounts to the States appropriated under section 5338(a)(2) to carry out sections 5307, 5310, and 5311 not later than December 15 for which any amounts are appropriated; and

⟦(2)⟧ *(3)* publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall

distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section [5338(a)(2)(C)] *5338(a)(2)(B)*—

[(1) $30,000,000 shall be set aside each fiscal year to carry out section 5307(h);]

(1) to carry out section 5307(h)—

(A) $60,906,000 shall be set aside in fiscal year 2022;

(B) $61,856,134 shall be set aside in fiscal year 2023;

(C) $62,845,832 shall be set aside in fiscal year 2024; and

(D) $63,832,511 shall be set aside in fiscal year 2025;

(2) [3.07 percent] *6 percent* shall be apportioned to urbanized areas in accordance with subsection (j);

[(3) of amounts not apportioned under paragraphs (1) and (2)—

[(A) for fiscal years 2016 through 2018, 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

[(B) for fiscal years 2019 and 2020, 2 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);]

(3) of amounts not apportioned under paragraphs (1) and (2), 3 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);

(4) 0.5 percent shall be apportioned to eligible States for State safety oversight program grants in accordance with section 5329(e)(6); and

(5) any amount not apportioned under paragraphs (1), (2), (3), and (4) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

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

(A) ELIGIBLE AREA.—The term "eligible area" means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(B) PERFORMANCE CATEGORY.—The term "performance category" means each of the following:

(i) Passenger miles traveled per vehicle revenue mile.

(ii) Passenger miles traveled per vehicle revenue hour.

(iii) Vehicle revenue miles per capita.

(iv) Vehicle revenue hours per capita.

(v) Passenger miles traveled per capita.

(vi) Passengers per capita.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

(3) CENSUS PHASE-OUT.—Before apportioning funds under subsection (h)(3), for any urbanized area that is no longer an eligible area due to a change in population in the most recent decennial census, the Secretary shall apportion to such urbanized area, for 3 fiscal years, an amount equal to half of the funds apportioned to such urbanized area pursuant to this subsection for the previous fiscal year.

(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

(1) ⟦75 percent⟧ *50 percent* of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

(2) ⟦25 percent⟧ *12.5 percent* of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

(3) 30 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

(A) the number of individuals in each such urbanized area residing in an urban census tract with a poverty rate of at least 20 percent during the 5 years most recently ending; bears to

(B) the number of individuals in all such urbanized areas residing in an urban census tract with a poverty rate of at least 20 percent during the 5 years most recently ending; and

(4) 7.5 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population less than 200,000 in the ratio that—

(A) the number of individuals in each such urbanized area residing in an urban census tract with a poverty rate of at least 20 percent during the 5 years most recently ending; bears to

(B) the number of individuals in all such areas residing in an urban census tract with a poverty rate of at least 20 percent during the 5 years most recently ending.

(k) PEAK REVENUE SERVICE DEFINED.—In this section, the term "peak revenue service" means the time period between the time in the morning that an agency first exceeds the number of midday vehicles in revenue service and the time in the evening that an agency falls below the number of midday vehicles in revenue service.

§ 5337. State of good repair grants

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

(1) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(2) STATE.—The term "State" means the 50 States, the District of Columbia, and Puerto Rico.

(3) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(4) TRANSIT ASSET MANAGEMENT PLAN.—The term "transit asset management plan" means a plan developed by a recipient of funding under this chapter that—

(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

(b) GENERAL AUTHORITY.—

(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public trans-

portation systems in a state of good repair, including projects to replace and rehabilitate—

(A) rolling stock;

(B) track;

(C) line equipment and structures;

(D) signals and communications;

(E) power equipment and substations;

(F) passenger stations and terminals;

(G) security equipment and systems;

(H) maintenance facilities and equipment;

(I) operational support equipment, including computer hardware and software;

(J) development and implementation of a transit asset management plan; and

(K) other replacement and rehabilitation projects the Secretary determines appropriate.

(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(K), 97.15 percent shall be apportioned to recipients in accordance with this subsection.

(2) AREA SHARE.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with the provisions of section 5336(b)(1) and using the definition of the term "fixed guideway" under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

(C) RECIPIENT.—For purposes of this paragraph, the term "recipient" means an entity that received funding under this section, as in effect for fiscal year 2011.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Sec-

retary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

(4) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

(B) SPECIAL RULE FOR FISCAL YEAR 2013.—In fiscal year 2013, the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term "fixed guideway" under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

(6) RECEIVING APPORTIONMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this subsection shall be apportioned to the designated recipient for the urbanized area in which the system operates.

(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(d) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

(1) DEFINITION.—For purposes of this subsection, the term "high intensity motorbus" means public transportation that is provided on a facility with access for other high-occupancy vehicles.

(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(K), 2.85 percent shall be apportioned to urbanized areas for high intensity motorbus vehicle state of good repair in accordance with this subsection.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—The amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

(4) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(5) USE OF FUNDS.—Amounts apportioned under this subsection may be used for any project that is an eligible project under subsection (b)(1).

(e) GOVERNMENT SHARE OF COSTS.—

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

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

(A) in cash from non-Government sources;

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

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

(3) ACCESSIBILITY COSTS.—Notwithstanding paragraph (1), the Federal share of the net project cost of a project to provide accessibility in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) shall be 90 percent.

[§ 5338. Authorizations

[(a) GRANTS.—

[(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5312, 5314, 5318, 5335, 5337, 5339, and 5340, section 20005(b) of the Federal Public Transportation Act of 2012, and sections 3006(b) of the Federal Public Transportation Act of 2015—

[(A) $9,347,604,639 for fiscal year 2016;

[(B) $9,534,706,043 for fiscal year 2017;

[(C) $9,733,353,407 for fiscal year 2018;

[(D) $9,939,380,030 for fiscal year 2019; and

[(E) $10,150,348,462 for fiscal year 2020.

[(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

[(A) $130,732,000 for fiscal year 2016, $133,398,933 for fiscal year 2017, $136,200,310 for fiscal year 2018, $139,087,757 for fiscal year 2019, and $142,036,417 for fiscal year 2020, shall be available to carry out section 5305;

[(B) $10,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

[(C) $4,538,905,700 for fiscal year 2016, $4,629,683,814 for fiscal year 2017, $4,726,907,174 for fiscal year 2018, $4,827,117,606 for fiscal year 2019, and $4,929,452,499 for fiscal year 2020 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

[(D) $262,949,400 for fiscal year 2016, $268,208,388 for fiscal year 2017, $273,840,764 for fiscal year 2018, $279,646,188 for fiscal year 2019, and $285,574,688 for fiscal year 2020 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

[(E) $2,000,000 for fiscal year 2016, $3,000,000 for fiscal year 2017, $3,250,000 for fiscal year 2018, $3,500,000 for fiscal year 2019 and $3,500,000 for fiscal year 2020 shall be available for the pilot program for innovative coordinated access and mobility under section 3006(b) of the Federal Public Transportation Act of 2015;

[(F) $619,956,000 for fiscal year 2016, $632,355,120 for fiscal year 2017, $645,634,578 for fiscal year 2018, $659,322,031 for fiscal year 2019, and $673,299,658 for fiscal year 2020 shall be available to provide financial assistance for rural areas under section 5311, of which not less than—

[(i) $35,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5311(c)(1); and

[(ii) $20,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5311(c)(2);

[(G) $28,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5312, of which—

[(i) $3,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5312(h); and

[(ii) $5,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5312(i);

[(H) $9,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5314; of which $5,000,000 shall be available for the national transit institute under section 5314(c);

[(I) $3,000,000 for each of fiscal years 2016 through 2020 shall be available for bus testing under section 5318;

[(J) $4,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5335;

[(K) $2,507,000,000 for fiscal year 2016, $2,549,670,000 for fiscal year 2017, $2,593,703,558 for fiscal year 2018, $2,638,366,859 for fiscal year 2019, and $2,683,798,369 for fiscal year 2020 shall be available to carry out section 5337;

[(L) $427,800,000 for fiscal year 2016, $436,356,000 for fiscal year 2017, $445,519,476 for fiscal year 2018, $454,964,489 for fiscal year 2019, and $464,609,736 for fiscal year 2020 shall be available for the bus and buses facilities program under section 5339(a);

[(M) $268,000,000 for fiscal year 2016, $283,600,000 for fiscal year 2017, $301,514,000 for fiscal year 2018, $322,059,980 for fiscal year 2019, and $344,044,179 for fiscal year 2020 shall be available for buses and bus facilities competitive grants under section 5339(b) and no or low emission grants under section 5339(c), of which $55,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5339(c); and

[(N) $536,261,539 for fiscal year 2016, $544,433,788 for fiscal year 2017, $552,783,547 for fiscal year 2018, $561,315,120 for fiscal year 2019 and $570,032,917 for fiscal year 2020, to carry out section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311, of which—

[(i) $272,297,083 for fiscal year 2016, $279,129,510 for fiscal year 2017, $286,132,747 for fiscal year 2018, $293,311,066 for fiscal year 2019, $300,668,843 for fiscal year 2020 shall be for growing States under section 5340(c); and

[(ii) $263,964,457 for fiscal year 2016, $265,304,279 for fiscal year 2017, $266,650,800 for fiscal year 2018, $268,004,054 for fiscal year 2019, $269,364,074 for fiscal year 2020 shall be for high density States under section 5340(d).

[(b) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROGRAM.—There are authorized to be appropriated to carry out section 5312, other than subsections (h) and (i) of that section, $20,000,000 for each of fiscal years 2016 through 2020.

[(c) TECHNICAL ASSISTANCE AND TRAINING.—There are authorized to be appropriated to carry out section 5314, $5,000,000 for each of fiscal years 2016 through 2020.

[(d) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309 of this title and section 3005(b) of the Federal Public Transportation Act of 2015, $2,301,785,760 for each of fiscal years 2016 through 2020.

[(e) ADMINISTRATION.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $115,016,543 for each of fiscal years 2016 through 2020.

[(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $5,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5329.

[(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $2,000,000 for each of fiscal years 2016 through 2020 shall be available to carry out section 5326.

[(f) OVERSIGHT.—

[(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

[(A) 0.5 percent of amounts made available to carry out section 5305.

[(B) 0.75 percent of amounts made available to carry out section 5307.

[(C) 1 percent of amounts made available to carry out section 5309.

[(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

[(E) 0.5 percent of amounts made available to carry out section 5310.

[(F) 0.5 percent of amounts made available to carry out section 5311.

[(G) 1 percent of amounts made available to carry out section 5337, of which not less than 0.25 percent of amounts made available for this subparagraph shall be available to carry out section 5329.

[(H) 0.75 percent of amounts made available to carry out section 5339.

[(2) ACTIVITIES.—The activities described in this paragraph are as follows:

[(A) Activities to oversee the construction of a major capital project.

[(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

[(C) Activities to provide technical assistance generally, and to provide technical assistance to correct defi-

ciencies identified in compliance reviews and audits carried out under this section.

[(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

[(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

[(g) GRANTS AS CONTRACTUAL OBLIGATIONS.—

[(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

[(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

[(h) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.]

§ 5338. Authorizations

(a) GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5314, 5318, 5320, 5328, 5335, 5337, 5339, and 5340—

(A) $16,185,800,000 for fiscal year 2022;

(B) $16,437,600,000 for fiscal year 2023;

(C) $16,700,600,000 for fiscal year 2024; and

(D) $16,963,600,000 for fiscal year 2025.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $189,879,151 for fiscal year 2022, $192,841,266 for fiscal year 2023, $195,926,726 for fiscal year 2024, and $199,002,776 for fiscal year 2025, shall be available to carry out section 5305;

(B) $7,505,830,848 for fiscal year 2022, $7,622,921,809 for fiscal year 2023, $7,744,888,558 for fiscal year 2024, and $7,866,483,309 for fiscal year 2025 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

(C) $101,510,000 for fiscal year 2022, $103,093,556 for fiscal year 2023, $104,743,053 for fiscal year 2024, and $106,387,519 for fiscal year 2025 shall be available for grants under section 5308;

(D) $434,830,298 for fiscal year 2022, $441,613,651 for fiscal year 2023, $448,679,469 for fiscal year 2024, and $455,723,737 for fiscal year 2025 shall be available to carry out section 5310, of which not less than—

(i) $5,075,500 for fiscal year 2022, $5,154,678 for fiscal year 2023, $5,237,153 for fiscal year 2024, and $5,319,376 for fiscal year 2025 shall be available to carry out section 5310(j); and

(ii) $20,302,000 for fiscal year 2022, $20,618,711 for fiscal year 2023, $20,948,611 for fiscal year 2024, and $21,277,504 for fiscal year 2025 shall be available to carry out section 5310(k);

(E) $1,025,199,724 for fiscal year 2022, $1,041,192,839 for fiscal year 2023, $1,057,851,925 for fiscal year 2024, and $1,074,460,200 for fiscal year 2025 shall be available to carry out section 5311, of which not less than—

(i) $55,679,500 for fiscal year 2022, $56,392,100 for fiscal year 2023, $57,134,374 for fiscal year 2024, and $57,874,383 for fiscal year 2025 shall be available to carry out section 5311(c)(1); and

(ii) $50,755,000 for fiscal year 2022, $51,546,778 for fiscal year 2023, $52,371,526 for fiscal year 2024, and $53,193,759 for fiscal year 2025 shall be available to carry out section 5311(c)(2);

(F) $33,498,300 for fiscal year 2022, $34,020,873 for fiscal year 2023, $34,565,207 for fiscal year 2024, and $35,107,881 for fiscal year 2025 shall be available to carry out section 5312, of which not less than—

(i) $5,075,500 for fiscal year 2022, $5,154,678 for fiscal year 2023, $5,237,153 for fiscal year 2024, and $5,319,376 for fiscal year 2025 shall be available to carry out each of sections 5312(d)(3), 5312(d)(4) and 5312(j);

(ii) $3,045,300 for fiscal year 2022, $3,092,807 for fiscal year 2023, $3,142,292 for fiscal year 2024, and $3,191,626 for fiscal year 2025 shall be available to carry out section 5312(h); and

(iii) $10,151,000 for fiscal year 2022, $10,309,356 for fiscal year 2023, $10,474,305 for fiscal year 2024, and $10,638,752 for fiscal year 2025 shall be available to carry out section 5312(i);

(G) $23,347,300 for fiscal year 2022, $23,711,518 for fiscal year 2023, $24,090,902 for fiscal year 2024, and $24,469,129 for fiscal year 2025 shall be available to carry out section 5314, of which not less than—

(i) $4,060,400 for fiscal year 2022, $4,123,742 for fiscal year 2023, $4,189,722 for fiscal year 2024, and $4,255,501 for fiscal year 2025 shall be available to carry out section of 5314(a);

(ii) $5,075,500 for fiscal year 2022, $5,154,678 for fiscal year 2023, $5,237,153 for fiscal year 2024, and $5,319,376 for fiscal year 2025 shall be available to carry out section 5314(c); and

(iii) $12,181,200 for fiscal year 2022, $12,371,227 for fiscal year 2023, $12,569,166 for fiscal year 2024, and $12,766,502 for fiscal year 2025 shall be available to carry out section 5314(b)(2);

(H) $5,075,500 for fiscal year 2022, $5,154,678 for fiscal year 2023, $5,237,153 for fiscal year 2024, and $5,319,376 for fiscal year 2025 shall be available to carry out section 5318;

(I) $30,453,000 for fiscal year 2022, $30,928,067 for fiscal year 2023, $31,422,916 for fiscal year 2024, and $31,916,256 for fiscal year 2025 shall be available to carry out section 5328, of which not less than—

(i) $25,377,500 for fiscal year 2022, $25,773,389 for fiscal year 2023, $26,185,763 for fiscal year 2024, and $26,596,880 for fiscal year 2025 shall be available to carry out section of 5328(b); and

(ii) $2,537,750 for fiscal year 2022, $2,577,339 for fiscal year 2023, $2,618,576 for fiscal year 2024, and $2,659,688 for fiscal year 2025 shall be available to carry out section 5328(c);

(J) $4,060,400 for fiscal year 2022, $4,123,742 for fiscal year 2023, $4,189,722 for fiscal year 2024, and $4,255,501 for fiscal year 2025 shall be available to carry out section 5335;

(K) $4,192,573,361 for fiscal year 2022, $4,266,448,314 for fiscal year 2023, $4,344,093,870 for fiscal year 2024, and $4,422,314,724 for fiscal year 2025 shall be available to carry out section 5337;

(L) to carry out the bus formula program under section 5339(a)—

(i) $1,240,328,213 for fiscal year 2022, $1,259,667,334 for fiscal year 2023, $1,279,832,171 for fiscal year 2024, and $1,299,925,536 for fiscal year 2025; except that

(ii) 15 percent of the amounts under clause (i) shall be available to carry out 5339(d);

(M) $437,080,000 for fiscal year 2022, $424,748,448 for fiscal year 2023, $387,944,423 for fiscal year 2024, and $351,100,151 for fiscal year 2025 shall be available to carry out section 5339(b);

(N) $375,000,000 for fiscal year 2022, $400,000,000 for fiscal year 2023, $450,000,000 for fiscal year 2024, and $500,000,000 for fiscal year 2025 shall be available to carry out section 5339(c); and

(O) $587,133,905 for each of fiscal years 2022 through 2025 shall be available to carry out section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311, of which—

(i) $309,688,908 for each of fiscal years 2022 through 2025 shall be for growing States under section 5340(c); and

(ii) $277,444,997 for each of fiscal years 2022 through 2025 shall be for high density States under section 5340(d).

(b) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309 $3,500,000,000 for fiscal year 2022, $4,250,000,000 for fiscal year 2023, $5,000,000,000 for fiscal year 2024, and 5,500,000,000 for fiscal year 2025.

(c) ADMINISTRATION.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $142,060,785 for fiscal year 2022, $144,191,696 for fiscal year 2023, $146,412,248 for fiscal year 2024, and 148,652,356 for fiscal year 2025.

(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $6,000,000 for each of fiscal years 2022 through 2025 shall be available to carry out section 5329.

(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $2,500,000 for each of fiscal years 2022 through 2025 shall be available to carry out section 5326.

(d) OVERSIGHT.—

(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

(A) 0.5 percent of amounts made available to carry out section 5305.

(B) 0.75 percent of amounts made available to carry out section 5307.

(C) 1 percent of amounts made available to carry out section 5309.

(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

(E) 0.5 percent of amounts made available to carry out section 5310.

(F) 0.5 percent of amounts made available to carry out section 5311.

(G) 1 percent of amounts made available to carry out section 5337, of which not less than 25 percent of such amounts shall be available to carry out section 5329 and of which not less than 10 percent of such amounts shall be made available to carry out section 5320.

(H) 1 percent of amounts made available to carry out section 5339 of which not less than 10 percent of such amounts shall be made available to carry out section 5320.

(I) 1 percent of amounts made available to carry out section 5308.

(2) ACTIVITIES.—The activities described in this paragraph are as follows:

(A) Activities to oversee the construction of a major capital project.

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection/activities described in paragraph (2).

(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the general fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.

§ 5339. Grants for buses and bus facilities

(a) FORMULA GRANTS.—

(1) DEFINITIONS.—In this subsection *and subsection (d)*—

(A) the ⟦term "low or no emission vehicle" has⟧ *term "zero emission vehicle" has* the meaning given that term in subsection (c)(1);

(B) the term "State" means a State of the United States *and the District of Columbia*; and

(C) the term "territory" means ⟦the District of Columbia,⟧ Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to assist eligible recipients described in paragraph (4)(A) in financing capital projects—

(A) to replace, rehabilitate, and purchase buses and related equipment, including technological changes or innovations to modify ⟦low or no emission vehicles⟧ *zero emission vehicles* or facilities; and

(B) to construct bus-related facilities.

(3) GRANT REQUIREMENTS.—The requirements of—

(A) section 5307 shall apply to recipients of grants made in urbanized areas under this subsection; and

(B) section 5311 shall apply to recipients of grants made in rural areas under this subsection.

(4) ELIGIBLE RECIPIENTS.—

(A) RECIPIENTS.—Eligible recipients under this subsection *and subsection (d)* are—

(i) designated recipients that allocate funds to fixed route bus operators; or

(ii) State or local governmental entities that operate fixed route bus service.

(B) SUBRECIPIENTS.—A recipient that receives a grant under this subsection *and subsection (d)* may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

(5) DISTRIBUTION OF GRANT FUNDS.—Funds allocated under section 5338(a)(2)(L) shall be distributed as follows:

(A) NATIONAL DISTRIBUTION.—**[**$90,500,000**]** *$156,750,000* for each of fiscal years **[**2016 through 2020**]** *2022 through 2025* shall be allocated to all States and territories, with each State receiving **[**$1,750,000**]** *$3,000,000* for each such fiscal year and each territory receiving **[**$500,000**]** *$750,000* for each such fiscal year.

(B) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under subparagraph (A) shall be allocated pursuant to the formula set forth in section 5336 other than subsection (b).

(6) TRANSFERS OF APPORTIONMENTS.—

(A) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State's apportionment under paragraph (5)(A) to supplement amounts apportioned to the State under section 5311(c) or amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336.

(B) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under paragraph (5)(B) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

(7) GOVERNMENT SHARE OF COSTS.—

(A) CAPITAL PROJECTS.—A grant for a capital project under this subsection shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this subsection may provide additional local matching amounts.

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

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

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

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

(iv) from amounts received under a service agreement with a State or local social service agency or private social service organization[; or]*;*

(v) from revenues generated from value capture financing mechanisms[.]*; or*

(vi) transportation development credits.

(C) SPECIAL RULE FOR BUSES AND RELATED EQUIPMENT FOR ZERO EMISSION VEHICLES.—Notwithstanding subparagraph (A), a grant for a capital project for buses and related equipment for zero emission vehicles under this subsection shall be for 90 percent of the net capital costs of the project. A recipient of a grant under this subsection may provide additional local matching amounts.

(8) PERIOD OF AVAILABILITY TO RECIPIENTS.—Amounts made available under this subsection may be obligated by a recipient for [3 fiscal years] *4 fiscal years* after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-fiscal-year period described in the preceding sentence, any amount that is not obligated on the last day of such period shall be added to the amount that may be apportioned under this subsection in the next fiscal year.

[(9) PILOT PROGRAM FOR COST-EFFECTIVE CAPITAL INVESTMENT.—

[(A) IN GENERAL.—For each of fiscal years 2016 through 2020, the Secretary shall carry out a pilot program under which an eligible recipient (as described in paragraph (4)) in an urbanized area with population of not less than 200,000 and not more than 999,999 may elect to participate in a State pool in accordance with this paragraph.

[(B) PURPOSE OF STATE POOLS.—The purpose of a State pool shall be to allow for transfers of formula grant funds made available under this subsection among the designated recipients participating in the State pool in a manner that supports the transit asset management plans of the designated recipients under section 5326.

[(C) REQUESTS FOR PARTICIPATION.—A State, and eligible recipients in the State described in subparagraph (A), may submit to the Secretary a request for participation in the program under procedures to be established by the Secretary. An eligible recipient for a multistate area may participate in only 1 State pool.

[(D) ALLOCATIONS TO PARTICIPATING STATES.—For each fiscal year, the Secretary shall allocate to each State participating in the program the total amount of funds that otherwise would be allocated to the urbanized areas of the eligible recipients participating in the State's pool

for that fiscal year pursuant to the formulas referred to in paragraph (5).

[(E) ALLOCATIONS TO ELIGIBLE RECIPIENTS IN STATE POOLS.—A State shall distribute the amount that is allocated to the State for a fiscal year under subparagraph (D) among the eligible recipients participating in the State's pool in a manner that supports the transit asset management plans of the recipients under section 5326.

[(F) ALLOCATION PLANS.—A State participating in the program shall develop an allocation plan for the period of fiscal years 2016 through 2020 to ensure that an eligible recipient participating in the State's pool receives under the program an amount of funds that equals the amount of funds that would have otherwise been available to the eligible recipient for that period pursuant to the formulas referred to in paragraph (5).

[(G) GRANTS.—The Secretary shall make grants under this subsection for a fiscal year to an eligible recipient participating in a State pool following notification by the State of the allocation amount determined under subparagraph (E).]

(b) [BUSES AND BUS FACILITIES COMPETITIVE GRANTS] *BUS FACILITIES AND FLEET EXPANSION COMPETITIVE GRANTS*.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to eligible recipients (as described in subsection (a)(4)) to assist in the financing of [buses and] bus facilities capital projects *and certain buses*, including—

(A) replacing, rehabilitating, purchasing, or leasing [buses or related equipment] *bus-related facilities*; and

[(B) rehabilitating, purchasing, constructing, or leasing bus-related facilities.]

(B) purchasing or leasing buses that will not replace buses in the applicant's fleet at the time of application and will be used to—

(i) increase the frequency of bus service; or

(ii) increase the service area of the applicant.

[(2) GRANT CONSIDERATIONS.—In making grants under this subsection, the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.]

(2) GRANT CONSIDERATIONS.—In making grants—

(A) under subparagraph (1)(A), the Secretary shall only consider—

(i) the age and condition of bus-related facilities of the applicant compared to all applicants and proposed improvements to the resilience (as such term is defined in section 5302) of such facilities;

(ii) for a facility within or partially within the 100-year floodplain, whether such facility will be at least 2 feet above the base flood elevation; and

(iii) for a bus station, the degree of multi-modal connections at such station; and

(B) under paragraph (1)(B), the Secretary shall consider the improvements to headway and projected new ridership.

(3) STATEWIDE APPLICATIONS.—A State may submit a statewide application on behalf of a public agency or private nonprofit organization engaged in public transportation in rural areas or other areas for which the State allocates funds. The submission of a statewide application shall not preclude the submission and consideration of any application under this subsection from other eligible recipients (as described in subsection (a)(4)) in an urbanized area in a State.

(4) REQUIREMENTS FOR THE SECRETARY.—The Secretary shall—

(A) disclose all metrics and evaluation procedures to be used in considering grant applications under this subsection upon issuance of the notice of funding availability in the Federal Register; and

(B) publish a summary of final scores for selected projects, metrics, and other evaluations used in awarding grants under this subsection in the Federal Register.

(5) RURAL PROJECTS.—Not less than 10 percent of the amounts made available under this subsection in a fiscal year shall be distributed to projects in rural areas.

(6) GRANT REQUIREMENTS.—

(A) IN GENERAL.—A grant under this subsection shall be subject to the requirements of—

(i) section 5307 for eligible recipients of grants made in urbanized areas; and

(ii) section 5311 for eligible recipients of grants made in rural areas.

[(B) GOVERNMENT SHARE OF COSTS.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.**]**

(B) GOVERNMENT SHARE OF COSTS.—

(i) IN GENERAL.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(ii) SPECIAL RULE FOR BUSES AND RELATED EQUIPMENT FOR ZERO EMISSION VEHICLES.—Notwithstanding clause (i), the Government share of the cost of an eligible project for the financing of buses and related equipment for zero emission vehicles shall not exceed 90 percent.

(7) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

(A) shall remain available for 3 fiscal years after the fiscal year for which the amount is made available; and

(B) that remain unobligated at the end of the period described in subparagraph (A) shall be added to the amount made available to an eligible project in the following fiscal year.

(8) LIMITATION.—Of the amounts made available under this subsection, not more than 10 percent may be awarded to a single grantee.

(c) [LOW OR NO EMISSION GRANTS] *ZERO EMISSION GRANTS*.—

(1) DEFINITIONS.—In this subsection—

(A) the term "direct carbon emissions" means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency;

(B) the term "eligible project" means a project or program of projects in an eligible area for—

(i) acquiring [low or no emission] *zero emission* vehicles;

(ii) leasing [low or no emission] *zero emission* vehicles;

(iii) acquiring [low or no emission] *zero emission* vehicles with a leased power source;

(iv) constructing [facilities and related equipment for low or no emission] *related equipment for zero emission* vehicles;

(v) leasing [facilities and related equipment for low or no emission vehicles;] *related equipment for zero emission vehicles; or*

[(vi) constructing new public transportation facilities to accommodate low or no emission vehicles; or]

[(vii)] *(vi)* rehabilitating or improving existing public transportation facilities to accommodate [low or no emission] *zero emission* vehicles;

(C) the term "leased power source" means a removable power source, as defined in subsection (c)(3) of section 3019 of the Federal Public Transportation Act of 2015 that is made available through a capital lease under such section;

[(D) the term "low or no emission bus" means a bus that is a low or no emission vehicle;

[(E) the term "low or no emission vehicle" means—

[(i) a passenger vehicle used to provide public transportation that the Secretary determines sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

[(ii) a zero emission vehicle used to provide public transportation;]

(D) the term "zero emission bus" means a bus that is a zero emission vehicle;

(E) the term "zero emission vehicle" means a vehicle used to provide public transportation that produces no carbon dioxide or particulate matter;

(F) the term "recipient" means a designated recipient, a local governmental authority, or a State that receives a grant under this subsection for an eligible project; [and]

[(G) the term "zero emission vehicle" means a low or no emission vehicle that produces no carbon or particulate matter.]

(G) the term "eligible area" means an area that is—

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

(ii) a maintenance area, as such term is defined in section 5303, for ozone or particulate matter; or

(iii) in a State that has enacted a statewide zero emission bus transition requirement, as determined by the Secretary; and

(H) the term "low-income community" means any population census tract if—

(i) the poverty rate for such tract is at least 20 percent; or

(ii) in the case of a tract—

(I) not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income; or

(II) located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater statewide median family income or the metropolitan area median family income.

(2) GENERAL AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this subsection.

(3) GRANT REQUIREMENTS.—

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

(B) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to eligible projects carried out under this subsection, unless the recipient requests a lower grant percentage.

(C) COMBINATION OF FUNDING SOURCES.—

(i) COMBINATION PERMITTED.—An eligible project carried out under this subsection may receive funding under section 5307 or any other provision of law.

(ii) GOVERNMENT SHARE.—Nothing in this subparagraph shall be construed to alter the Government share required under paragraph (7), section 5307, or any other provision of law.

(4) COMPETITIVE PROCESS.—The Secretary shall—

(A) not later than 30 days after the date on which amounts are made available for obligation under this subsection for a full fiscal year, solicit grant applications for eligible projects on a competitive basis; and

(B) award a grant under this subsection based on the solicitation under subparagraph (A) not later than the earlier of—

(i) 75 days after the date on which the solicitation expires; or

(ii) the end of the fiscal year in which the Secretary solicited the grant applications.

[(5) CONSIDERATION.—In awarding grants under this subsection, the Secretary shall only consider eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that—

[(A) make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses; and

[(B) are part of a long-term integrated fleet management plan for the recipient.]

(5) GRANT ELIGIBILITY.—In awarding grants under this subsection, the Secretary shall make grants to eligible projects relating to the acquisition or leasing of zero emission buses or bus facility improvements—

(A) that procure—

(i) at least 10 zero emission buses;

(ii) if the recipient operates less than 50 buses in peak service, at least 5 zero emission buses; or

(iii) hydrogen buses;

(B) for which the recipient's board of directors has approved a long-term integrated fleet management plan that—

(i) establishes a goal by a set date to convert the entire bus fleet to zero emission buses; or

(ii) establishes a goal that within 10 years from the date of approval of such plan the recipient will convert a set percentage of the total bus fleet of such recipient to zero emission buses; and

(C) for which the recipient has performed a fleet transition study that includes optimal route planning and an analysis of how utility rates may impact the recipient's operations and maintenance budget.

(6) LOW AND MODERATE COMMUNITY GRANTS.—Not less than 10 percent of the amounts made available under this subsection in a fiscal year shall be distributed to projects serving predominantly low-income communities.

(6) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

(A) shall remain available to an eligible project for 3 fiscal years after the fiscal year for which the amount is made available; and

(B) that remain unobligated at the end of the period described in subparagraph (A) shall be added to the amount made available to an eligible project in the following fiscal year.

(7) GOVERNMENT SHARE OF COSTS.—

(A) IN GENERAL.—The Federal share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of an eligible project carried out under this subsection may be derived from in-kind contributions.

(8) CERTIFICATION.—The Secretary of Commerce shall certify that no projects carried out under this subsection use minerals sourced or processed with child labor, as such term is defined in Article 3 of the International Labor Organization Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labor (December 2, 2000), or in violation of human rights.

(d) RESTORATION TO STATE OF GOOD REPAIR FORMULA SUBGRANT.—

(1) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to assist eligible recipients and subrecipients described in paragraph (2) in financing capital projects to replace, rehabilitate, and purchase buses and related equipment.

(2) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—Not later than September 1 annually, the Secretary shall make public a list of eligible recipients and subrecipients based on the most recent data available in the National Transit Database to calculate the 20 percent of eligible recipients and subrecipients with the highest percentage of asset vehicle miles for buses beyond the useful life benchmark established by the Federal Transit Administration.

(3) URBAN APPORTIONMENTS.—Funds allocated under section 5338(a)(2)(L)(ii) shall be—

(A) distributed to—

(i) designated recipients in an urbanized area with a population of more than 200,000 made eligible by paragraph (1); and

(ii) States based on subrecipients made eligible by paragraph (1) in an urbanized area under 200,000; and

(B) allocated pursuant to the formula set forth in section 5336 other than subsection (b), using the data from the 20 percent of eligible recipients and subrecipients.

(4) RURAL ALLOCATION.—The Secretary shall—

(A) calculate the percentage of funds under section 5338(a)(2)(L)(ii) to allocate to rural subrecipients by dividing—

(i) the asset vehicle miles for buses beyond the useful life benchmark (established by the Federal Transit Administration) of the rural subrecipients described in paragraph (2); by

(ii) the total asset vehicle miles for buses beyond such benchmark of all eligible recipients and subrecipients described in paragraph (2); and

(B) prior to the allocation described in paragraph (3)(B), apportion to each State the amount of the total rural allocation calculated under subparagraph (A) attributable to such State based the proportion that—

(i) the asset vehicle miles for buses beyond the useful life benchmark (established by the Federal Transit Administration) for rural subrecipients described in paragraph (2) in such State; bears to

(ii) the total asset vehicle miles described in subparagraph (A)(i).

(5) APPLICATION OF OTHER PROVISIONS.—Paragraphs (3), (7), and (8) of subsection (a) shall apply to eligible recipients and subrecipients described in paragraph (2) of a grant under this subsection.

(6) PROHIBITION.—No eligible recipient or subrecipient outside the top 5 percent of asset vehicle miles for buses beyond the useful life benchmark established by the Federal Transit Administration may receive a grant in both fiscal year 2022 and fiscal year 2023.

(7) REQUIREMENT.—The Secretary shall require—

(A) States to expend, to the benefit of the subrecipients eligible under paragraph (2), the apportioned funds attributed to such subrecipients; and

(B) designated recipients to provide the allocated funds to the recipients eligible under paragraph (2) the apportioned funds attributed to such recipients.

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

(a) DEFINITION.—In this section, the term "State" shall mean each of the 50 States of the United States *and the District of Columbia*.

(b) ALLOCATION.—The Secretary shall apportion the amounts made available under section **[**5338(b)(2)(N)**]** *5338(a)(2)(O)* in accordance with subsection (c) and subsection (d).

(c) GROWING STATE APPORTIONMENTS.—

(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available,

the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

(A) the total land area of the State (in square miles); multiplied by

(B) 370; multiplied by

(C)(i) the population of the State in urbanized areas; divided by

(ii) the total population of the State.

(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

§ 5341. U.S. Employment Plan

(a) DEFINITIONS.—In this section:

(1) COMMITMENT TO HIGH-QUALITY CAREER AND BUSINESS OPPORTUNITIES.—The term "commitment to high-quality career and business opportunities" means participation in a registered apprenticeship program.

(2) COVERED INFRASTRUCTURE PROGRAM.—The term "covered infrastructure program" means any activity under program or project under this chapter for the purchase or acquisition of rolling stock.

(3) U.S. EMPLOYMENT PLAN.—The term "U.S. Employment Plan" means a plan under which an entity receiving Federal assistance for a project under a covered infrastructure program shall—

(A) include in a request for proposal an encouragement for bidders to include, with respect to the project—

(i) high-quality wage, benefit, and training commitments by the bidder and the supply chain of the bidder for the project; and

(ii) a commitment to recruit and hire individuals described in subsection (e) if the project results in the hiring of employees not currently or previously employed by the bidder and the supply chain of the bidder for the project;

(B) give preference for the award of the contract to a bidder that includes the commitments described in clauses (i) and (ii) of subparagraph (A); and

(C) ensure that each bidder that includes the commitments described in clauses (i) and (ii) of subparagraph (A) that is awarded a contract complies with those commitments.

(4) REGISTERED APPRENTICESHIP PROGRAM.—The term "registered apprenticeship program" means an apprenticeship program registered with the Department of Labor or a Federally-recognized State Apprenticeship Agency and that complies with the requirements under parts 29 and 30 of title 29, Code of Federal Regulations, as in effect on January 1, 2019.

(b) BEST-VALUE FRAMEWORK.—To the maximum extent practicable, a recipient of assistance under a covered infrastructure program is encouraged—

(1) to ensure that each dollar invested in infrastructure uses a best-value contracting framework to maximize the local value of federally funded contracts by evaluating bids on price and other technical criteria prioritized in the bid, such as—

(A) equity;

(B) environmental and climate justice;

(C) impact on greenhouse gas emissions;

(D) resilience;

(E) the results of a 40-year life-cycle analysis;

(F) safety;

(G) commitment to creating or sustaining high-quality job opportunities affiliated with registered apprenticeship

programs (as defined in subsection (a)(3)) for disadvantaged or underrepresented individuals in infrastructure industries in the United States; and

(H) access to jobs and essential services by all modes of travel for all users, including disabled individuals; and

(2) to ensure community engagement, transparency, and accountability in carrying out each stage of the project.

(c) PREFERENCE FOR REGISTERED APPRENTICESHIP PROGRAMS.—To the maximum extent practicable, a recipient of assistance under a covered infrastructure program, with respect to the project for which the assistance is received, shall give preference to a bidder that demonstrates a commitment to high-quality job opportunities affiliated with registered apprenticeship programs.

(d) USE OF U.S. EMPLOYMENT PLAN.—Notwithstanding any other provision of law, in carrying out a project under a covered infrastructure program, each entity that receives Federal assistance shall use a U.S. Employment Plan for each contract of $10,000,000 or more for the purchase of manufactured goods or of services, based on an independent cost estimate.

(e) PRIORITY.—The head of the relevant Federal agency shall ensure that the entity carrying out a project under the covered infrastructure program gives priority to—

(1) individuals with a barrier to employment (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102)), including ex-offenders and disabled individuals;

(2) veterans; and

(3) individuals that represent populations that are traditionally underrepresented in the infrastructure workforce, such as women and racial and ethnic minorities.

(f) REPORT.—Not less frequently than once each fiscal year, the heads of the relevant Federal agencies shall jointly submit to Congress a report describing the implementation of this section.

(g) INTENT OF CONGRESS.—

(1) IN GENERAL.—It is the intent of Congress—

(A) to encourage recipients of Federal assistance under covered infrastructure programs to use a best-value contracting framework described in subsection (b) for the purchase of goods and services;

(B) to encourage recipients of Federal assistance under covered infrastructure programs to use preferences for registered apprenticeship programs as described in subsection (c) when evaluating bids for projects using that assistance;

(C) to require that recipients of Federal assistance under covered infrastructure programs use the U.S. Employment Plan in carrying out the project for which the assistance was provided; and

(D) that full and open competition under covered infrastructure programs means a procedural competition that prevents corruption, favoritism, and unfair treatment by recipient agencies.

(2) INCLUSION.—A best-value contracting framework described in subsection (b) is a framework that authorizes a recipient of Federal assistance under a covered infrastructure pro-

gram, in awarding contracts, to evaluate a range of factors, including price, the quality of products, the quality of services, and commitments to the creation of good jobs for all people in the United States.

(h) AWARD BASIS.—

(1) PRIORITY FOR TARGETED HIRING OR U.S. EMPLOYMENT PLAN PROJECTS.—In awarding grants under this section, the Secretary shall give priority to eligible entities that—

(A) ensure that not less than 50 percent of the workers hired to participate in the job training program are hired through local hiring in accordance with subsection (e), including by prioritizing individuals with a barrier to employment (including ex-offenders), disabled individuals (meaning an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), veterans, and individuals that represent populations that are traditionally underrepresented in the infrastructure workforce; or

(B) ensure the commitments described in clauses (i) and (ii) of subsection (a)(2)(A) with respect to carrying out the job training program.

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CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

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SUBCHAPTER I—GENERAL

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§ 5505. University transportation centers program

(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

(C) to address critical workforce needs and educate the next generation of transportation leaders.

(b) COMPETITIVE SELECTION PROCESS.—

(1) APPLICATIONS.—To receive a grant under this section, a consortium of nonprofit institutions of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

(2) RESTRICTION.—

(A) LIMITATION.—A lead institution of a consortium of nonprofit institutions of higher education, as applicable, may only receive 1 grant per fiscal year for each of the transportation centers described under paragraphs (2), (3), and (4) of subsection (c).

(B) EXCEPTION FOR CONSORTIUM MEMBERS THAT ARE NOT LEAD INSTITUTIONS.—Subparagraph (A) shall not apply to a nonprofit institution of higher education that is a member of a consortium of nonprofit institutions of higher education but not the lead institution of such consortium.

(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

(4) GENERAL SELECTION CRITERIA.—

(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the [research priorities identified in chapter 65.] *following research priorities:*

(i) Improving the mobility of people and goods.

(ii) Reducing congestion.

(iii) Promoting safety.

(iv) Improving the durability and extending the life of transportation infrastructure and the existing transportation system.

(v) Preserving the environment.

(vi) Reducing greenhouse gas emissions.

(B) CRITERIA.—The Secretary, in consultation with the Assistant Secretary for Research and [Technology and] *Technology,* the Administrator of the Federal Highway Administration*, the Associate Administrator for Research, Demonstration, and Innovation and Administrator of the Federal Transit Administration,* and other modal administrations as appropriate, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

(I) degree-granting programs or programs that provide other industry-recognized credentials; and

(II) outreach activities to attract new entrants into the transportation field, including women and underrepresented populations;

(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

(5) TRANSPARENCY.—

(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

(B) REPORTS.—The Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process under paragraph (4) that includes—

(i) specific criteria of evaluation used in the review;

(ii) descriptions of the review process; and

(iii) explanations of the selected awards.

(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders, including the Transportation Research Board of the National Re-

search Council of the National Academies, to evaluate and competitively review all proposals.

(c) GRANTS.—

(1) IN GENERAL.—[Not later than 1 year after the date of enactment of this section,]

(A) SELECTION OF GRANTS.—Not later than 1 year after the date of enactment of the INVEST in America Act, the Secretary shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

(B) LIMITATIONS.—A grant under this subsection may not include a cooperative agreement described in section 6305 of title 31.

(2) NATIONAL TRANSPORTATION CENTERS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to [5 consortia] *6 consortia* that the Secretary determines best meet the criteria described in subsection (b)(4).

(B) RESTRICTIONS.—

(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be [not greater than $4,000,000 and not less than $2,000,000] *not greater than $4,250,000 and not less than $2,250,000* per recipient.

(ii) FOCUSED RESEARCH.—A consortium receiving a grant under this paragraph shall focus research on 1 of the transportation issue areas specified in section 6503(c).

(C) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match [100 percent] *50 percent* of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(D) REQUIREMENT.—In awarding grants under this section, the Secretary shall award 1 grant to a national consortia for each focus area described in subsection (b)(4)(A).

(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled "Standard Federal Regions" and dated April 1974 (circular A–105).

(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 consortia on the basis of—

(i) the criteria described in subsection (b)(4);

(ii) the location of the lead center within the Federal region to be served; and

(iii) whether the consortium of institutions demonstrates that the consortium has a well-established, nationally recognized program in transportation research and education, as evidenced by—

(I) recent expenditures by the institution in highway or public transportation research;

(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be [not greater than $3,000,000 and not less than $1,500,000] *not greater than $3,250,000 and not less than $1,750,000* per recipient.

(D) MATCHING REQUIREMENTS.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match [100 percent] *50 percent* of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

[(E) FOCUSED RESEARCH.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety, congestion, connected vehicles, connected infrastructure, and autonomous vehicles.]

(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

(A) IN GENERAL.—The Secretary shall provide grants of not [greater than $2,000,000 and not less than $1,000,000] *greater than $2,250,000 and not less than $1,250,000* to not more than 20 recipients to carry out this paragraph.

(B) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

[(C) FOCUSED RESEARCH.—In awarding grants under this section, consideration shall be given to minority insti-

tutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.]

(C) REQUIREMENTS.—In awarding grants under this paragraph, the Secretary shall—

(i) consider consortia that include institutions that have demonstrated an ability in transportation-related research; and

(ii) award not less than 2 grants under this section to minority institutions, as such term is defined in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k).

(D) FOCUSED RESEARCH.—

(i) IN GENERAL.—In awarding grants under this section, the Secretary shall select not less than 1 grant recipient with each of the following focus areas:

(I) Transit.

(II) Connected and automated vehicle technology.

(III) Non-motorized transportation, including bicycle and pedestrian safety.

(IV) Transportation planning, including developing metropolitan planning practices to meet the considerations described in section 134(c)(4) of title 23 and section 5303(c)(4).

(V) The surface transportation workforce, including—

(aa) current and future workforce needs and challenges; and

(bb) the impact of technology on the transportation sector.

(VI) Climate change mitigation, including—

(aa) researching the types of transportation projects that are expected to provide the most significant greenhouse gas emissions reductions from the surface transportation sector; and

(bb) researching the types of transportation projects that are not expected to provide significant greenhouse gas emissions reductions from the surface transportation sector.

(VII) Rail.

(ii) ADDITIONAL GRANTS.—In awarding grants under this section and after awarding grants pursuant to clause (i), the Secretary may award any remaining grants to any grant recipient based on the criteria described in subsection (b)(4)(A).

(E) CONSIDERATIONS FOR SELECTED INSTITUTIONS.—

(i) IN GENERAL.—Tier 1 transportation centers awarded a grant under this paragraph with a focus area described in subparagraph (D)(i)(IV) shall consider the following areas for research:

(I) strategies to address climate change mitigation and impacts described in section 134(i)(2)(I)(ii) of title 23 and the incorporation of such strategies into long range transportation plan; and

(II) preparation of a vulnerability assessment described in section 134(i)(2)(I)(iii) of title 23.

(ii) ACTIVITIES.—A tier 1 transportation center receiving a grant under this section with a focus area described in subparagraph (D)(i)(IV) may—

(I) establish best practices;

(II) develop modeling tools; and

(III) carry out other activities and develop technology that addresses the planning considerations described in clause (i).

(iii) LIMITATION.—Research under this subparagraph shall focus on metropolitan planning organizations that represent urbanized areas with populations of 200,000 or fewer.

(d) PROGRAM COORDINATION.—

(1) IN GENERAL.—The Secretary shall—

(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

(B) disseminate the results of that research through the establishment and operation of a publicly accessible online information clearinghouse.

(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 6503, the Secretary shall—

(A) review and evaluate the programs carried out under this section by grant recipients; and

(B) submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report describing that review and evaluation.

(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of ⟦fiscal years 2016 through 2020⟧ *fiscal years 2022 through 2025*, the Secretary shall expend not more than 1 and a half percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are authorized.

(f) SURPLUS AMOUNTS.—

(1) IN GENERAL.—Amounts made available to the Secretary to carry out this section that remain unobligated after award-

ing grants under subsection (c) shall be made available under the unsolicited research initiative under section 5506.

(2) LIMITATION ON AMOUNTS.—Amounts under paragraph (1) shall not exceed $2,000,000 for any given fiscal year.

[(f)] *(g)* INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.

§ 5506. Unsolicited research initiative

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a program under which an eligible entity may at any time submit unsolicited research proposals for funding under this section.

(b) CRITERIA.—A research proposal submitted under subsection (a) shall meet the purposes of the Secretary's 5-year transportation research and development strategic plan described in section 6503(c)(1).

(c) PROJECT REVIEW.—Not later than 90 days after an eligible entity submits a proposal under subsection (a), the Secretary shall—

(1) review the research proposal submitted under subsection (a);

(2) evaluate such research proposal relative to the criteria described in subsection (b);

(3) provide to such eligible entity a written notice that—

(A) if the research proposal is not selected for funding under this section—

(i) notifies the eligible entity that the research proposal has not been selected for funding;

(ii) provides an explanation as to why the research proposal was not selected, including if the research proposal does not cover an area of need; and

(iii) if applicable, recommends that the research proposal be submitted to another research program; and

(B) if the research proposal is selected for funding under this section, notifies the eligible entity that the research proposal has been selected for funding; and

(4) fund the proposals described in paragraph (3)(B).

(d) REPORT.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary shall make available to the public on a public website a report on the progress and findings of the program established under subsection (a).

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section may not exceed 50 percent.

(2) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-

Federal share of the cost of an activity carried out under this section.

(f) FUNDING.—

(1) IN GENERAL.—Of the funds made available to carry out the university transportation centers program under section 5505, $2,000,000 shall be available for each of fiscal years 2022 through 2025 to carry out this section.

(2) FUNDING FLEXIBILITY.—

(A) IN GENERAL.—For fiscal years 2022 through 2025, funds made available under paragraph (1) shall remain available until expended.

(B) UNCOMMITTED FUNDS.—If the Secretary determines, at the end of a fiscal year, funds under paragraph (1) remain unexpended as a result of a lack of meritorious projects under this section, the Secretary may, for the following fiscal year, make remaining funds available under either this section or under section 5505.

(g) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means

(1) a State;

(2) a unit of local government;

(3) a transit agency;

(4) any nonprofit institution of higher education, including a university transportation center under section 5505; and

(5) a nonprofit organization.

§ 5507. National highly automated vehicle and mobility innovation clearinghouse

(a) IN GENERAL.—The Secretary shall make a grant to an institution of higher education engaged in research on the secondary impacts of highly automated vehicles and mobility innovation to—

(1) operate a national highly automated vehicle and mobility innovation clearinghouse;

(2) collect, conduct, and fund research on the secondary impacts of highly automated vehicles and mobility innovation;

(3) make such research available on a public website; and

(4) conduct outreach and dissemination of the information described in this subsection to assist communities.

(b) DEFINITIONS.—In this section:

(1) HIGHLY AUTOMATED VEHICLE.—The term "highly automated vehicle" means a motor vehicle that—

(A) is capable of performing the entire task of driving (including steering, accelerating and decelerating, and reacting to external stimulus) without human intervention; and

(B) is designed to be operated exclusively by a Level 3, Level 4, or Level 5 automated driving system for all trips according to the recommended practice standards published on June 15, 2018, by the Society of Automotive Engineers International (J3016—201806) or equivalent standards adopted by the Secretary with respect to automated motor vehicles.

(2) MOBILITY INNOVATION.—The term "mobility innovation" means an activity described in section 5316, including mobility on demand and mobility as a service (as such terms are defined in such section).

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

(4) SECONDARY IMPACTS.—The term "secondary impacts" means the impacts on land use, urban design, transportation, real estate, accessibility, municipal budgets, social equity, availability and quality of jobs, and the environment.

§ 5508. Transportation workforce outreach program

(a) IN GENERAL.—The Secretary shall establish and administer a transportation workforce outreach program that carries out a series of public service announcement campaigns during fiscal years 2022 through 2026.

(b) PURPOSE.—The purpose of each campaign carried out under the program shall be to achieve the following objectives:

(1) Increase awareness of career opportunities in the transportation sector, including aviation pilots, safety inspectors, mechanics and technicians, maritime transportation workers, air traffic controllers, flight attendants, truck drivers, engineers, transit workers, railroad workers, and other transportation professionals.

(2) Increase diversity, including race, gender, ethnicity, and socioeconomic status, of professionals in the transportation sector.

(c) ADVERTISING.—The Secretary may use, or authorize the use of, funds available to carry out the program for the development, production, and use of broadcast, digital, and print media advertising and outreach in carrying out campaigns under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $5,000,000 for each fiscal years 2022 through 2026.

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CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

Sec.
6301. Definitions.
* * * * * * *
[6314. Port performance freight statistics program.]
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§ 6307. Furnishing of information, data, or reports by Federal agencies

(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

(b) PROHIBITION ON CERTAIN DISCLOSURES.—

(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) [or section 6314(b)] can be identified;

(B) use the information provided under section 6302(b)(3)(B) [or section 6314(b)] for a nonstatistical purpose; or

(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B) [or section 6314(b)].

(2) COPIES OF REPORTS.—

(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) [or section 6314(b)] with the Bureau or retained by an individual respondent.

(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

(i) shall be immune from legal process; and

(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

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[§ 6314. Port performance freight statistics program

[(a) IN GENERAL.—The Director shall establish, on behalf of the Secretary, a port performance statistics program to provide nationally consistent measures of performance of, at a minimum—

[(1) the Nation's top 25 ports by tonnage;

[(2) the Nation's top 25 ports by 20-foot equivalent unit; and

[(3) the Nation's top 25 ports by dry bulk.

[(b) REPORTS.—

[(1) PORT CAPACITY AND THROUGHPUT.—Not later than January 15 of each year, the Director shall submit an annual report to Congress that includes statistics on capacity and throughput at the ports described in subsection (a).

[(2) PORT PERFORMANCE MEASURES.—The Director shall collect port performance measures for each of the United States ports referred to in subsection (a) that—

[(A) receives Federal assistance; or

[(B) is subject to Federal regulation to submit necessary information to the Bureau that includes statistics on capacity and throughput as applicable to the specific configuration of the port.

[(c) RECOMMENDATIONS.—

[(1) IN GENERAL.—The Director shall obtain recommendations for—

[(A) port performance measures, including specifications and data measurements to be used in the program established under subsection (a); and

[(B) a process for the Department to collect timely and consistent data, including identifying safeguards to protect proprietary information described in subsection (b)(2).

[(2) WORKING GROUP.—Not later than 60 days after the date of the enactment of the Transportation for Tomorrow Act of 2015, the Director shall commission a working group composed of—

[(A) operating administrations of the Department;

[(B) the Coast Guard;

[(C) the Federal Maritime Commission;

[(D) U.S. Customs and Border Protection;

[(E) the Marine Transportation System National Advisory Council;

[(F) the Army Corps of Engineers;

[(G) the Saint Lawrence Seaway Development Corporation;

[(H) the Bureau of Labor Statistics;

[(I) the Maritime Advisory Committee for Occupational Safety and Health;

[(J) the Advisory Committee on Supply Chain Competitiveness;

[(K) 1 representative from the rail industry;

[(L) 1 representative from the trucking industry;

[(M) 1 representative from the maritime shipping industry;

[(N) 1 representative from a labor organization for each industry described in subparagraphs (K) through (M);

[(O) 1 representative from the International Longshoremen's Association;

[(P) 1 representative from the International Longshore and Warehouse Union;

[(Q) 1 representative from a port authority;

[(R) 1 representative from a terminal operator;

[(S) representatives of the National Freight Advisory Committee of the Department; and

[(T) representatives of the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine.

[(3) RECOMMENDATIONS.—Not later than 1 year after the date of the enactment of the Transportation for Tomorrow Act of 2015, the working group commissioned under paragraph (2) shall submit its recommendations to the Director.

[(d) ACCESS TO DATA.—The Director shall ensure that—

[(1) the statistics compiled under this section—

[(A) are readily accessible to the public; and

[(B) are consistent with applicable security constraints and confidentiality interests; and

[(2) the data acquired, regardless of source, shall be protected in accordance with section 3572 of title 44.]

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CHAPTER 65—RESEARCH PLANNING

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§ 6503. Transportation research and development 5-year strategic plan

(a) IN GENERAL.—[The Secretary] *For the period of fiscal years 2017 through 2021, and for each 5-year period thereafter, the Secretary* shall develop a 5-year transportation research and development strategic plan to guide future Federal transportation research and development activities.

(b) CONSISTENCY.—The strategic plan developed under subsection (a) shall be consistent with—

(1) section 306 of title 5;

(2) sections 1115 and 1116 of title 31; and

(3) any other research and development plan within the Department of Transportation.

(c) CONTENTS.—The strategic plan developed under subsection (a) shall—

(1) describe how the plan furthers the primary purposes of the transportation research and development program, which shall include—

(A) improving mobility of people and goods;

(B) reducing congestion;

(C) promoting safety;

(D) improving the durability and extending the life of transportation infrastructure *and the existing transportation system*;

(E) preserving the environment[; and]*;*

[(F) preserving the existing transportation system;]

(F) reducing greenhouse gas emissions; and

(G) developing and maintaining a diverse workforce in transportation sectors;

(2) for each of the purposes referred to in paragraph (1), list the primary proposed research and development activities that the Department of Transportation intends to pursue to accomplish that purpose, which may include—

(A) fundamental research pertaining to the applied physical and natural sciences;

(B) applied science and research;

(C) technology development research; and

(D) social science research; and

(3) for each research and development activity—

(A) identify the anticipated annual funding levels for the period covered by the strategic plan; and

(B) describe the research findings the Department expects to discover at the end of the period covered by the strategic plan.

(d) CONSIDERATIONS.—The Secretary shall ensure that the strategic plan developed under this section—

(1) reflects input from a wide range of external stakeholders;

(2) includes and integrates the research and development programs of all of the modal administrations of the Department of Transportation, including aviation, transit, rail, and maritime and joint programs;

(3) takes into account research and development by other Federal, State, local, private sector, and nonprofit institutions;

(4) [not later than December 31, 2016,] *not later than December 31, 2021,* is published on a public website; and

(5) takes into account how research and development by other Federal, State, private sector, and nonprofit institutions—

(A) contributes to the achievement of the purposes identified under subsection (c)(1); and

(B) avoids unnecessary duplication of those efforts.

(e) INTERIM REPORT.—Not later than 2 1/2 years after the date of enactment of this chapter, the Secretary may publish on a public website an interim report that—

(1) provides an assessment of the 5-year research and development strategic plan of the Department of Transportation described in this section; and

(2) includes a description of the extent to which the research and development is or is not successfully meeting the purposes described under subsection (c)(1).

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SUBTITLE IV—INTERSTATE TRANSPORTATION

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PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

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CHAPTER 135—JURISDICTION

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SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

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§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative associa-

tion or federation between those places, measured by tonnage; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) transportation by motor vehicle of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

(7) a motor vehicle used only to distribute newspapers;

(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

(9) the operation of a motor vehicle in a national park or national monument;

(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

(13) transportation of wood chips;

(14) brokers for motor carriers of passengers, except as provided in section 13904(d);

(15) transportation of broken, crushed, or powdered glass; or

(16) the transportation of passengers by 9 to 15 passenger motor vehicles operated by youth or family camps that provide recreational or educational activities.

(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; **[**or**]**

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle**[**.**]***; or*

(4) transportation by a motor vehicle designed or used to transport between 9 and 15 passengers (including the driver), whether operated alone or with a trailer attached for the transport of recreational equipment, that is operated by a person that provides recreational activities if—

(A) the transportation is provided within a 150 air-mile radius of the location where passengers are boarded; and

(B) the person operating the motor vehicle, if transporting passengers over a route between a place in a State and a place in another State, is otherwise lawfully providing transportation of passengers over the entire route in accordance with applicable State law.

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SUBTITLE V—RAIL PROGRAMS

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PART A—SAFETY

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CHAPTER 201—GENERAL

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SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

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20131. Restricted access to rolling equipment.

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20169. Freight train crew size safety standards.
20170. Assault prevention and response plans.
20171. Grade crossing separation grants.
20172. Rail safety public awareness grants.
20173. Time limit for blocking a rail crossing.

SUBCHAPTER I—GENERAL

* * * * * * *

§ 20103. General authority

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

[(d) NONEMERGENCY WAIVERS.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.**]**

(d) NONEMERGENCY WAIVERS.—

(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety.

(2) NOTICE REQUIRED.—The Secretary shall—

(A) provide timely public notice of any request for a waiver under this subsection;

(B) make the application for such waiver and any related underlying data available to interested parties;

(C) provide the public with notice and a reasonable opportunity to comment on a proposed waiver under this subsection before making a final decision; and

(D) make public the reasons for granting a waiver under this subsection.

(3) INFORMATION PROTECTION.—Nothing in this subsection shall be construed to require the release of information protected by law from public disclosure.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided.

(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(g) EMERGENCY WAIVERS.—

(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this part without prior notice and comment if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with railroad safety; and

(C) the waiver is necessary to address an actual or impending emergency situation or emergency event.

(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

(3) STATEMENT OF REASONS.—The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

(4) CONSULTATION.—In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

(5) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms "emergency situation" and "emergency event" mean a natural or manmade disaster, such as a hurri-

cane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.

* * * * * * *

[§ 20117. Authorization of appropriations

[(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

[(A) $225,000,000 for fiscal year 2009;
[(B) $245,000,000 for fiscal year 2010;
[(C) $266,000,000 for fiscal year 2011;
[(D) $289,000,000 for fiscal year 2012; and
[(E) $293,000,000 for fiscal year 2013.

[(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System vehicles and track geometry vehicles or other comparable technology as needed to assess track safety consistent with the results of the track inspection study required by section 403 of the Rail Safety Improvement Act of 2008.

[(3) There are authorized to be appropriated to the Secretary $18,000,000 for the period encompassing fiscal years 2009 through 2013 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

[(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2009 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.

[(b) GRADE CROSSING SAFETY.—Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

[(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

[(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety re-

search, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

[(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.]

§ 20117. Authorization of appropriations

(a) SAFETY AND OPERATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the operations of the Federal Railroad Administration and to carry out railroad safety activities authorized or delegated to the Administrator—

(A) $229,000,000 for fiscal year 2021.

(B) $231,000,000 for fiscal year 2022;

(C) $233,000,000 for fiscal year 2023;

(D) $235,000,000 for fiscal year 2024; and

(E) $237,000,000 for fiscal year 2025.

(2) AUTOMATED TRACK INSPECTION PROGRAM AND DATA ANALYSIS.—From the funds made available under paragraph (1) for each of fiscal years 2021 through 2025, not more than $17,000,000 may be expended for the Automated Track Inspection Program and data analysis related to track inspection. Such funds shall remain available until expended.

(3) STATE PARTICIPATION GRANTS.—Amounts made available under paragraph (1) for grants under section 20105(e) shall remain available until expended.

(b) RAILROAD RESEARCH AND DEVELOPMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for necessary expenses for carrying out railroad research and development activities the following amounts which shall remain available until expended:

(A) $42,000,000 for fiscal year 2021.

(B) $44,000,000 for fiscal year 2022.

(C) $46,000,000 for fiscal year 2023.

(D) $48,000,000 for fiscal year 2024.

(E) $50,000,000 for fiscal year 2025.

(2) STUDY ON LNG BY RAIL.—From the amounts made available for fiscal years 2021 through 2025 under paragraph (1), the Secretary shall expend not less than $6,000,000 and not more than $8,000,000 to carry out the evaluation of transporting liquefied natural gas by rail under section 8202 of the TRAIN Act.

(3) STUDY ON SAFETY CULTURE ASSESSMENTS.—From the amounts made available for fiscal year 2021 under paragraph (1), the Secretary shall expend such sums as are necessary to carry out the study on safety culture assessments under section 9517 of the TRAIN Act.

(4) SHORT LINE SAFETY.—From funds made available under paragraph (1) for each of fiscal years 2021 through 2025, the Secretary may expend not more than $4,000,000—

(A) for grants to improve safety practices and training for Class II and Class III freight railroads; and

(B) to develop safety management systems for Class II and Class III freight railroads through safety culture assessments, training and education, outreach activities, and technical assistance.

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SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

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§ 20152. Notification of grade crossing problems

(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

(1) establish and maintain a toll-free telephone service for rights-of-way over which it dispatches trains, to directly receive calls reporting—

(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

(B) disabled vehicles blocking railroad tracks at such grade crossings;

(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach; **[**or**]**

(D) blocked crossings; or

[(D)**]** *(E)* other safety information involving such grade crossings;

(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

(4) upon receiving a report pursuant to **[**paragraph (1)(C) or (D)**]** *subparagraph (C), (D), or (E) of paragraph (1)*, timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; **[**and**]**

(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

(B) an explanation of the purpose of that toll-free telephone number; and

(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation[.]*; and*

(6) promptly inform the Secretary if the number required to be established under subsection (a) has changed and report the new number to the Secretary.

(b) WAIVER.—The Secretary may waive the requirement that the telephone service be toll-free for Class II and Class III rail carriers if the Secretary determines that toll-free service would be cost prohibitive or unnecessary.

(c) PUBLICATION OF TELEPHONE NUMBERS.—The Secretary shall make any telephone number established under subsection (a) publicly available on the website of the Department of Transportation.

* * * * * * *

§ 20157. Implementation of positive train control systems

(a) IN GENERAL.—

(1) PLAN REQUIRED.—Not later than 90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation a revised plan for implementing a positive train control system by December 31, 2018, governing operations on—

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

(C) such other tracks as the Secretary may prescribe by regulation or order.

(2) IMPLEMENTATION.—

(A) CONTENTS OF REVISED PLAN.—A revised plan required under paragraph (1) shall—

(i) describe—

(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

(ii) comply with the positive train control system implementation plan content requirements under sec-

tion 236.1011 of title 49, Code of Federal Regulations; and

(iii) provide—

(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with—

(aa) availability of public funding;

(bb) interoperability;

(cc) spectrum;

(dd) software;

(ee) permitting; and

(ff) testing, demonstration, and certification; and

(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

(B) ALTERNATIVE SCHEDULE AND SEQUENCE.—Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

(C) AMENDMENTS.—A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and se-

quence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

(D) COMPLIANCE.—A railroad carrier or other entity subject to paragraph (1) shall implement a positive train control system in accordance with its revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

(3) SECRETARIAL REVIEW.—

(A) NOTIFICATION.—A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

(B) CRITERIA.—Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has—

(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

(iii) completed employee training required under the applicable positive train control system regulations;

(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)—

(I) initiated revenue service demonstration on at least 1 territory that is required to have oper-

ations governed by a positive train control system; or

(II) met any other criteria established by the Secretary.

(C) DECISION.—

(i) IN GENERAL.—Not later than 90 days after the receipt of the notification from a railroad carrier or other entity under subparagraph (A), the Secretary shall—

(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

(II) notify in writing the railroad carrier or other entity of the decision.

(ii) DEFICIENCIES.—Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

(D) REVISED DEADLINES.—

(i) PENDING REVIEWS.—For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

(ii) ALTERNATIVE SCHEDULE AND SEQUENCE DEADLINE.—If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that railroad carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

(c) PROGRESS REPORTS AND REVIEW.—

(1) PROGRESS REPORTS.—Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including—

(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

(E) for each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement a positive train control system;

(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

(G) any other information requested by the Secretary.

(2) PLAN REVIEW.—The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate—

(A) proprietary information; and

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(d) REPORT TO CONGRESS.—Not later than July 1, 2018, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for—

(1) a violation of this section;

(2) the failure to submit or comply with the revised plan required under subsection (a), including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).

(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

(2) CONFORMING REGULATORY AMENDMENTS.—Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary—

(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

(3) REVIEW.—Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required to conform with this section.

(4) CLARIFICATION.—

(A) PROHIBITIONS.—The Secretary is prohibited from—

(i) approving or disapproving a revised plan submitted under subsection (a)(1);

(ii) considering a revised plan under subsection (a)(1) as a request for amendment under section 236.1021 of title 49, Code of Federal Regulations; or

(iii) requiring the submission, as part of the revised plan under subsection (a)(1), of—

(I) only a schedule and sequence under subsection (a)(2)(A)(iii)(VII); or

(II) both a schedule and sequence under subsection (a)(2)(A)(iii)(VII) and an alternative schedule and sequence under subsection (a)(2)(B).

(B) CIVIL PENALTY AUTHORITY.—Except as provided in paragraph (2) and this paragraph, nothing in this subsection shall be construed to limit the Secretary's authority

to assess civil penalties pursuant to subsection (e), consistent with the requirements of this section.

(C) RETAINED REVIEW AUTHORITY.—The Secretary retains the authority to review revised plans submitted under subsection (a)(1) and is authorized to require modifications of those plans to the extent necessary to ensure that such plans include the descriptions under subsection (a)(2)(A)(i), the contents under subsection (a)(2)(A)(ii), and the year or years, totals, and summary under subsection (a)(2)(A)(iii)(I) through (VI).

(h) CERTIFICATION.—

(1) IN GENERAL.—The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

(2) PROVISIONAL OPERATION.—Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent necessary to enable the safe implementation and operation of a positive train control system in phases.

(i) DEFINITIONS.—In this section:

(1) EQUIVALENT OR GREATER LEVEL OF SAFETY.—The term "equivalent or greater level of safety" means the compliance of a railroad carrier with—

(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

(B) all applicable safety regulations, except as specified in subsection (j).

(2) HARDWARE.—The term "hardware" means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole.

(3) INTEROPERABILITY.—The term "interoperability" means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

(4) MAIN LINE.—The term "main line" means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur,

the Secretary shall define the term "main line" by regulation.

(5) POSITIVE TRAIN CONTROL SYSTEM.—The term "positive train control system" means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.

(j) EARLY ADOPTION.—

(1) OPERATIONS.—From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control operated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

(2) SAFETY ASSURANCE.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

(3) PLANS.—The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

(4) NOTIFICATION.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

(k) SMALL RAILROADS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

(l) REVENUE SERVICE DEMONSTRATION.—When a railroad carrier or other entity subject to (a)(1) notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also notify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).

(m) ANNUAL REPORT OF SYSTEM FAILURES.—Not later than April 16 of each calendar year following the date of an implementation deadline under subsection (a)(1), each railroad shall submit to the Secretary a report containing the number of positive train control system failures, separated by each major hardware category, that occurred during the previous calendar year.

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§ 20169. Freight train crew size safety standards

(a) MINIMUM CREW SIZE.—No freight train may be operated unless such train has a crew of at least 1 appropriately qualified and certified conductor and 1 appropriately qualified and certified engineer.

(b) EXCEPTIONS.—Except as provided in subsection (d), the prohibition in subsection (a) shall not apply in any of the following circumstances:

(1) Train operations within a rail yard or terminal area or on auxiliary or industry tracks.

(2) A train operated—

(A) by a railroad carrier that has fewer than 400,000 total employee work hours annually and less than $40,000,000 annual revenue (adjusted for inflation as measured by the Surface Transportation Board Railroad Inflation-Adjusted Index);

(B) at a speed of not more than 25 miles per hour; and

(C) on a track with an average track grade of less than 2 percent for any segment of track that is at least 2 continuous miles.

(3) Locomotives performing assistance to a train that has incurred mechanical failure or lacks the power to traverse difficult terrain, including traveling to or from the location where assistance is provided.

(4) Locomotives that—

(A) are not attached to any equipment or attached only to a caboose; and

(B) do not travel farther than 30 miles from a rail yard.

(5) Train operations staffed with fewer than a 2-person crew at least 1 year prior to the date of enactment of this section, if the Secretary determines that the operation achieves an equivalent level of safety.

(c) TRAINS INELIGIBLE FOR EXCEPTION.—The exceptions under subsection (b) may not be applied to—

(1) a train transporting 1 or more loaded cars carrying material toxic by inhalation, as defined in section 171.8 of title 49, Code of Federal Regulations;

(2) a train carrying 20 or more loaded tank cars of a Class 2 material or a Class 3 flammable liquid in a continuous block or a single train carrying 35 or more loaded tank cars of a Class 2 material or a Class 3 flammable liquid throughout the train consist; and

(3) a train with a total length of 7,500 feet or greater.

(d) WAIVER.—A railroad carrier may seek a waiver of the requirements of this section pursuant to section 20103(d).

§ 20170. Assault prevention and response plans

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the TRAIN Act, any entity that provides regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation for review and approval an assault prevention and response plan (in this section referred to as the "Plan") to address transportation assaults.

(b) CONTENTS OF PLAN.—The Plan required under subsection (a) shall include—

(1) procedures that—

(A) facilitate the reporting of a transportation assault, including the notification of on-site personnel, rail law enforcement, and local law enforcement;

(B) personnel should follow up on the reporting of a transportation assault, including actions to protect affected individuals from continued assault;

(C) may be taken to remove the passenger or personnel who has committed a transportation assault from the train or related area or facility as soon as practicable when appropriate;

(D) include protections and safe reporting practices for passengers who may have been assaulted by personnel; and

(E) may limit or prohibit, to the extent practicable, future travel with the entity described in subsection (a) by any passenger or personnel who commits a transportation assault against personnel or passengers;

(2) a policy that ensures an employee who is a victim or witness of a transportation assault may participate in the prosecution of a criminal offense of such assault without any adverse effect on the victim's or witnesses' employment status; and

(3) a process and timeline for conducting an annual review and update of the Plan.

(c) NOTICE TO PASSENGERS.—An entity described under subsection (a) shall display onboard trains and in boarding areas, as appropriate, a notice stating the entity's abilities to restrict future travel under subsection (b)(1)(E).

(d) PERSONNEL TRAINING.—An entity described under subsection (a) shall provide initial and annual training for all personnel on the contents of the Plan, including training regarding—

(1) the procedures described in subsection (b);

(2) methods for responding to hostile situations, including de-escalation training; and

(3) rights and responsibilities of personnel with respect to a transportation assault on themselves, other personnel, or passengers.

(e) PERSONNEL PARTICIPATION.—The Plan required under subsection (a) shall be developed and implemented with the direct participation of personnel, and, as applicable, labor organizations representing personnel.

(f) REPORTING.—

(1) INCIDENT NOTIFICATION.—

(A) IN GENERAL.—Not later than 10 days after a transportation assault incident, the applicable entity described in subsection (a) shall notify personnel employed at the location in which the incident occurred. In the case of an incident on a vehicle, such entity shall notify personnel regularly scheduled to carry out employment activities on the service route on which the incident occurred.

(B) CONTENT OF INCIDENT REPORT.—The notification required under paragraph (1) shall—

(i) include a summary of the incident; and

(ii) be written in a manner that protects the confidentiality of individuals involved in the incident.

(2) ANNUAL REPORT.—For each calendar year, each entity with respect to which a transportation assault incident has been reported during such year shall submit to the Secretary report that describes—

(A) the number of assault incidents reported to the entity, including—

(i) the number of incidents committed against passengers; and

(ii) the number of incidents committed against personnel; and

(B) the number of assault incidents reported to rail or local law enforcement by personnel of the entity.

(3) PUBLICATION.—The Secretary shall make available to the public on the primary website of the Federal Railroad Administration the data collected under paragraph (2).

(4) DATA PROTECTION.—Data made available under this subsection shall be made available in a manner that protects the confidentiality of individuals involved in transportation assault incidents.

(g) DEFINITION OF TRANSPORTATION ASSAULT.—In this section, the term "transportation assault" means the occurrence, or reasonably suspected occurrence, of an act that—

(1) constitutes assault;

(2) is committed by a passenger or member of personnel of an entity that provides regularly scheduled intercity or commuter rail passenger transportation against another passenger or member of personnel of such entity; and

(3) takes place—

(A) within a vehicle of such entity; or

(B) in an area in which passengers are entering or exiting a vehicle described in subparagraph (A); or

(C) a station or facility where such entity operates, regardless of ownership of the station or facility.

§ 20171. Grade crossing separation grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall make grants under this section to eligible entities to assist in financing the cost of highway-rail grade separation projects.

(b) APPLICATION REQUIREMENTS.—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application in such form, in such manner, and containing such information as the Secretary may require, including—

(1) an agreement between the entity that owns or controls the right-of-way and the applicant addressing access to right-of-way throughout the project; and

(2) a cost-sharing agreement with the funding amounts that the entity that owns or controls the right-of-way shall contribute to the project, which shall be not less than 10 percent of the total project cost.

(c) ELIGIBLE PROJECTS.—The following projects are eligible to receive a grant under this section:

(1) Installation, repair, or improvement of grade crossing separations.

(2) Grade crossing elimination incidental to eligible grade crossing separation projects.

(3) Project planning, development, and environmental work related to a project described in paragraph (1) or (2).

(d) PROJECT SELECTION CRITERIA.—

(1) LARGE PROJECTS.—Of amounts made available to carry out this section, not more than 50 percent shall be available for projects with total costs of $100,000,000 or greater.

(2) CONSIDERATIONS.—In awarding grants under this section, the Secretary—

(A) shall give priority to projects that maximize the safety benefits of Federal funding; and

(B) may evaluate applications on the safety profile of the existing crossing, 10-year history of accidents at such crossing, inclusion of the proposed project on a grade crossing safety action plan, average automobile traffic, freight and passenger train traffic, average daily number of crossing closures, and proximity of community resources, including schools, hospitals, fire stations, police stations, and emergency medical service facilities.

(e) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COSTS.—The Secretary shall estimate the total costs of a project under this section based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analysis, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share for a project carried out under this section shall not exceed 85 percent.

(f) GRANT CONDITIONS.—An eligible entity may not receive a grant for a project under this section unless such project is in compliance with section 22905, except that 22905(b) shall only apply to a person that conducts rail operations.

(g) TWO YEAR LETTERS OF INTENT.—

(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, issue a letter of intent to a recipient of a grant under subsection (d)(1) that—

(A) announces an intention to obligate for no more than 2 years, for a major capital project under subsection (d)(1), an amount that is not more than the amount stipulated as the financial participation of the Secretary for the project; and

(B) states that the contingent commitment—

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) CONGRESSIONAL NOTIFICATION.—

(A) IN GENERAL.—Not later than 3 days before issuing a letter of intent under paragraph (1), the Secretary shall submit written notification to—

(i) the Committee on Transportation and Infrastructure of the House of Representatives;

(ii) the Committee on Appropriations of the House of Representatives;

(iii) the Committee on Appropriations of the Senate; and

(iv) the Committee on Commerce, Science, and Transportation of the Senate.

(B) CONTENTS.—The notification submitted under subparagraph (A) shall include—

(i) a copy of the letter of intent;

(ii) the criteria used under subsection (b) for selecting the project for a grant; and

(iii) a description of how the project meets such criteria.

(h) APPROPRIATIONS REQUIRED.—An obligation or administrative commitment may be made under subsection (g) only after amounts are appropriated for such purpose.

(i) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) a public agency or publicly chartered authority;

(C) a metropolitan planning organization;

(D) a political subdivision of a State; and

(E) a Tribal government.

(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" has the meaning given such term in section 134(b) of title 23.

(3) STATE.—The term "State" means a State of the United States or the District of Columbia.

§ 20172. Rail safety public awareness grants

(a) GRANT.—The Administrator of the Federal Railroad Administration shall make grants to eligible entities to carry out public information and education programs to help prevent and reduce rail-related pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at railway-highway grade crossings.

(b) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Administrator an application in such form, in such manner, and containing such information as the Secretary may require.

(c) CONTENTS.—Programs eligible for a grant under this section—

(1) shall include, as appropriate—

(A) development, placement, and dissemination of public service announcements in appropriate media;

(B) school presentations, driver safety education, materials, and public awareness campaigns; and

(C) disseminating information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings; and

(2) may include targeted and sustained outreach in communities at greatest risk to develop measures to reduce such risk.

(d) COORDINATION.—Eligible entities shall coordinate program activities with local communities, law enforcement and emergency responders, and rail carriers, as appropriate, and ensure consistency with State highway-rail grade crossing action plans required under section 11401(b) of the FAST Act (49 U.S.C. 22501 note) and the report titled "National Strategy to Prevent Trespassing on Railroad Property" issued by the Federal Railroad Administration in October 2018.

(e) PRIORITIZATION.—In awarding grants under this section, the Administrator shall give priority to applications for programs that—

(1) are nationally recognized;

(2) are targeted at schools in close proximity to railroad rights-of-way;

(3) partner with nearby railroad carriers; or

(4) focus on communities with a recorded history of repeated pedestrian and motor vehicle accidents, incidents, injuries, and fatalities at highway-rail grade crossings and along railroad rights-of-way.

(f) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—the term "eligible entity" means—

(A) a nonprofit organization;

(B) a State;

(C) a political subdivision of a State; and

(D) a public law enforcement agency or emergency response organization.

(2) STATE.—The term "State" means a State of the United States, the District of Columbia, and Puerto Rico.

§ 20173. Time limit for blocking a rail crossing

(a) TIME LIMIT.—A train, locomotive, railroad car, or other rail equipment is prohibited from blocking a crossing for more than 10 minutes, unless the train, locomotive, or other equipment is directly delayed by—

(1) a casualty or serious injury;

(2) an accident;

(3) a track obstruction;

(4) an act of God; or

(5) a derailment or a major equipment failure that prevents the train from advancing.

(b) CIVIL PENALTY.—The Secretary of Transportation may issue civil penalties for violations of subsection (a) in accordance with section 21301.

(c) DELEGATION.—The Secretary may delegate enforcement actions under subsection (b) to States either through a State inspector certified by the Federal Railroad Administration, or other law enforcement officials as designated by the States and approved by the Administration. The Secretary shall issue guidance or regulations not later than 1 year after the date of enactment on the criteria and process for States to gain approval under this section.

(d) APPLICATION TO AMTRAK AND COMMUTER RAILROADS.—This section shall not apply to Amtrak or commuter authorities, including Amtrak and commuter authorities' operations run or dispatched by a Class I railroad.

(e) DEFINITIONS.—In this section:

(1) CROSSING.—The term "crossing" means a location within a State in which a public highway, road, or street, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade-separated.

(2) BLOCKED CROSSING.—The term "blocked crossing" means a circumstance in which a train, locomotive, railroad car, or other rail equipment is stopped in a manner that obstructs public travel at a crossing.

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CHAPTER 209—ACCIDENTS AND INCIDENTS

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§ 20901. Reports

(a) GENERAL REQUIREMENTS.—Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident *(including the train length, the number of crew members on board the train, and the duties of such crew members)*. If a railroad carrier assigns

human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

(b) MONETARY THRESHOLD FOR REPORTING.—(1) In establishing or changing a monetary threshold for the reporting of a railroad accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

§ 20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may **[**subpena**]** *subpoena* witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(d) GATHERING INFORMATION AND TECHNICAL EXPERTISE.—

(1) IN GENERAL.—The Secretary shall create a standard process for investigators to use during accident and incident investigations conducted under this section for determining when it is appropriate to, and how to—

(A) gather information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers or representatives of employ-

ees of railroad carriers, and others, as determined relevant by the Secretary; and

(B) consult with railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation.

(2) CONFIDENTIALITY.—In developing the process under paragraph (1), the Secretary shall factor in ways to maintain the confidentiality of any entity identified under paragraph (1) if—

(A) such entity requests confidentiality;

(B) such entity was not involved in the accident or incident; and

(C) maintaining such entity's confidentiality does not adversely affect an investigation of the Federal Railroad Administration.

(3) APPLICATION OF LAW.—This subsection shall not apply to any investigation carried out by the National Transportation Safety Board.

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CHAPTER 211—HOURS OF SERVICE

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§ 21101. Definitions

In this chapter—

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, *a yardmaster employee,* a signal employee, or a train employee.

(4) "signal employee" means an individual who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

(6) "yardmaster employee" means an individual responsible for supervising and coordinating the control of trains and engines operating within a rail yard.

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§ 21103. Limitations on duty hours of train employees *AND YARDMASTER EMPLOYEES*

(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee *or yardmaster employee* to—

(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours—

(A) on duty;

(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

(C) in any other mandatory service for the carrier;

(2) remain or go on duty for a period in excess of 12 consecutive hours;

(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

(4) remain or go on duty after that employee has initiated an on-duty period each day for—

(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier except that—

(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective bargaining agreements entered into during such period expressly provide for such a schedule;

(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee *or yardmaster employee* is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

(1) A railroad carrier may not require or allow an employee—

(A) to exceed a total of 40 hours per calendar month spent—

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

(B) to exceed a total of 30 hours per calendar month spent—

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by—

(A) a casualty;

(B) an accident;

(C) an act of God;

(D) a derailment;

(E) a major equipment failure that prevents the train from advancing; or

(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release in excess of the requirements of paragraph (1).

(4) If—

(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus

(B) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours.

(d) EMERGENCIES.—A train employee *or yardmaster employee* on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's *or yardmaster employee's* minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee *or yardmaster employee* by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an

employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.

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§ 21109. Regulatory authority

(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

(3) to limit or eliminate the amount of time an employee spends waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is considered neither on duty nor off duty under this chapter;

(4) for signal employees—

(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

(5) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release, that could affect employee fatigue and railroad safety.

(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and op-

erating practices that improve safety or reduce employee fatigue, a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

(d) TIME LIMITS.—

(1) If the Secretary determines that regulations are necessary under subsection (a), the Secretary shall first request that the Railroad Safety Advisory Committee develop proposed regulations and, if the Committee accepts the task, provide the Committee with a reasonable time period in which to complete the task.

(2) If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months.

(3) If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008.

(e) PILOT PROJECTS.—

(1) IN GENERAL.—**[**Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008**]** *Not later than 1 year after the date of enactment of the TRAIN Act*, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

(3) COORDINATION.—The pilot projects required under subparagraph (1) shall be developed and evaluated in coordination

with the labor organization representing the class or craft of employees impacted by the pilot projects.

(f) DUTY CALL DEFINED.—In this section the term "duty call" means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.

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PART B—ASSISTANCE

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CHAPTER 229—RAIL IMPROVEMENT GRANTS

§ 22905. Grant conditions

(a) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; *or*

[(C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or]

[(D)] *(C)* including domestic material will increase the cost of the overall project by more than 25 percent.

(3) For purposes of this subsection, in calculating the components' costs, labor costs involved in final assembly shall not be included in the calculation.

[(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

[(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

[(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.]

(4)(A) If the Secretary receives a request for a waiver under paragraph (2), the Secretary shall provide notice of and an op-

portunity for public comment on the request at least 30 days before making a finding based on the request.

(B) A notice provided under subparagraph (A) shall—

(i) include the information available to the Secretary concerning the request, including whether the request is being made under subparagraph (A), (B), or (C) of paragraph (2); and

(ii) be provided by electronic means, including on the official public website of the Department of Transportation.

(5) Not later than December 31, ⟦2012⟧ *2020, and each year thereafter*, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2) *during the preceding fiscal year*.

(6) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(7) A person is ineligible to receive a contract or subcontract made with amounts authorized under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(8) The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(9) The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(10) A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(11) The requirements of this subsection shall only apply to projects for which the costs exceed $100,000.

(12) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decisions under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source for activities carried out pursuant to such contracts, if at least 1 contract for the project is funded with amounts made available to carry out a provision specified in paragraph (1).

(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(2) the Railway Labor Act (45 U.S.C. 151 et seq.); and

(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this chapter for a project that uses rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

(B) the protective arrangements [that are equivalent to the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform

Act of 1976 (45 U.S.C. 836)] *established by the Secretary under subsection (e)(1)* with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this chapter.

(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this chapter and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity or unless Amtrak ceased providing intercity passenger railroad transportation over the affected route more than 3 years before the commencement of new service, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(2) IMMEDIATE REPLACEMENT SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). The arbitrator shall be guided by prevailing national standard rates of pay, benefits, and working conditions for comparable work. This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(e) EQUIVALENT EMPLOYEE PROTECTIONS.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this subsection, the Administrator of the Federal Railroad Administration shall establish protective arrangements equivalent to those established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836), and require such protective arrangements to apply to employees described under subsection (c)(2)(B) and as required under subsection (j) of section 22907.

(2) PUBLICATION.—The Administrator shall make available on a publicly available website the protective arrangements established under paragraph (1).

[(e)**]** *(f)* INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

(1) commuter rail passenger transportation (as defined in section 24102) operations of a State or local governmental authority (as those terms are defined in section 5302) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

(2) the Alaska Railroad or its contractors; or

(3) Amtrak's access rights to railroad rights of way and facilities under current law.

[(f)**]** *(g)* LIMITATION.—No grants shall be provided under this chapter for commuter rail passenger transportation (as defined in section 24102(3)).

[§ 22906. Authorization of appropriations

[There are authorized to be appropriated to the Secretary of Transportation for capital grants under this chapter the following amounts:

[(1) For fiscal year 2009, $100,000,000.

[(2) For fiscal year 2010, $300,000,000.

[(3) For fiscal year 2011, $400,000,000.

[(4) For fiscal year 2012, $500,000,000.

[(5) For fiscal year 2013, $600,000,000.**]**

§ 22906. Passenger rail improvement, modernization, and expansion grants

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a program to make grants for capital projects that improve the state of good repair, operational performance, or growth of intercity rail passenger transportation.

(b) PROJECT SELECTION CRITERIA.—

(1) IN GENERAL.—Capital projects eligible for a grant under this section include—

(A) a project to replace, rehabilitate, or repair a major infrastructure asset used for providing passenger rail service to bring such infrastructure asset into a state of good repair;

(B) a project to improve passenger rail performance, including congestion mitigation, reliability improvements, achievement of on-time performance standards established under section 207 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 24101 note), reduced trip times, increased train frequencies, higher operating speeds, electrification, and other improvements, as determined by the Secretary; and

(C) a project to repair, rehabilitate, replace, or build infrastructure to expand or establish intercity rail passenger transportation and facilities, including high-speed rail.

(2) REQUIREMENTS.—To be eligible for a grant under this section, an applicant shall have, or provide documentation of a credible plan to achieve—

(A) the legal, financial, and technical capacity to carry out the project;

(B) satisfactory continuing control over the use of the equipment or facilities that are the subject of the project; and

(C) an agreement in place for maintenance of such equipment or facilities.

(3) PRIORITY.—In selecting an applicant for a grant under this section, the Secretary shall give preference to capital projects that—

(A) are supported by multiple States or are included in a regional planning process; or

(B) achieve environmental benefits such as a reduction in greenhouse gas emissions or an improvement in local air quality.

(4) ADDITIONAL CONSIDERATIONS.—In selecting an applicant for a grant under this section, the Secretary shall consider—

(A) the cost-benefit analysis of the proposed project, including anticipated public benefits relative to the costs of the proposed project, including—

(i) effects on system and service performance;

(ii) effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(iii) impacts on the overall transportation system, including efficiencies from improved integration with other modes of transportation or benefits associated with achieving modal shifts; and

(iv) the ability to meet existing or anticipated passenger or service demand;

(B) the applicant's past performance in developing and delivering similar projects;

(C) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or required by law; and

(D) if applicable, agreements between all stakeholders necessary for the successful delivery of the project.

(c) NORTHEAST CORRIDOR PROJECTS.—Of the funds made available to carry out this section, not less than 40 percent shall be made available for projects included in the Northeast Corridor investment plan required under section 24904.

(d) NATIONAL PROJECTS.—Of the funds made available to carry out this section, not less than 40 percent shall be made available for—

(1) projects on the National Network;

(2) high-speed rail projects; and

(3) the establishment of new passenger rail corridors not located on the Northeast Corridor.

(e) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COST ESTIMATE.—The Secretary shall estimate the total cost of a project under this section based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total costs for a project under this section shall not exceed 90 percent.

(3) TREATMENT OF REVENUE.—Applicants may use ticket and other revenues generated from operations and other sources to satisfy the non-Federal share requirements.

(f) LETTERS OF INTENT.—

(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, issue a letter of intent to a recipient of a grant under this section that—

(A) announces an intention to obligate, for a major capital project under this section, an amount that is not more than the amount stipulated as the financial participation of the Secretary in the project; and

(B) states that the contingent commitment—

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) CONGRESSIONAL NOTIFICATION.—

(A) IN GENERAL.—Not later than 3 days before issuing a letter of intent under paragraph (1), the Secretary shall submit written notification to—

(i) the Committee on Transportation and Infrastructure of the House of Representatives;

(ii) the Committee on Appropriations of the House of Representatives;

(iii) the Committee on Appropriations of the Senate; and

(iv) the Committee on Commerce, Science, and Transportation of the Senate.

(B) CONTENTS.—The notification submitted under subparagraph (A) shall include—

(i) a copy of the letter of intent;

(ii) the criteria used under subsection (b) for selecting the project for a grant; and

(iii) a description of how the project meets such criteria.

(g) APPROPRIATIONS REQUIRED.—An obligation or administrative commitment may be made under this section only when amounts are appropriated for such purpose.

(h) GRANT ADMINISTRATION.—The Secretary may withhold up to 1 percent of the total amount made available to carry out this section for program oversight and management, including providing technical assistance and project planning guidance.

(i) REGIONAL PLANNING GUIDANCE.—The Secretary may withhold up to half a percent of the total amount made available to

carry out this section to facilitate and provide guidance for regional planning processes.

(j) AVAILABILITY.—Amounts made available to carry out this section shall remain available until expended.

(k) GRANT CONDITIONS.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the grant conditions under section 22905, except that the domestic buying preferences of section 24305(f) shall apply to grants provided to Amtrak in lieu of the requirements of section 22905(a).

(l) DEFINITIONS.—In this section:

(1) APPLICANT.—The term "applicant" means—

(A) a State;

(B) a group of States;

(C) an Interstate Compact;

(D) a public agency or publicly chartered authority established by 1 or more States;

(E) a political subdivision of a State; or

(F) Amtrak, acting on its own behalf or under a cooperative agreement with 1 or more States.

(2) CAPITAL PROJECT.—The term "capital project" means—

(A) acquisition, construction, replacement, rehabilitation, or repair of major infrastructure assets or equipment that benefit intercity rail passenger transportation, including tunnels, bridges, stations, track, electrification, grade crossings, passenger rolling stock, and other assets, as determined by the Secretary;

(B) projects that ensure service can be maintained while existing assets are rehabilitated or replaced; and

(C) project planning, development, design, and environmental analysis related to projects under subsections (A) and (B).

(3) INTERCITY RAIL PASSENGER TRANSPORTATION.—The term "intercity rail passenger transportation" has the meaning given such term in section 24102.

(4) HIGH-SPEED RAIL.—The term "high-speed rail" has the meaning given such term in section 26106(b).

(5) NORTHEAST CORRIDOR.—The term "Northeast Corridor" has the meaning given such term in section 24102.

(6) NATIONAL NETWORK.—The term "National Network" has the meaning given such term in section 24102.

(7) STATE.—The term "State" means each of the 50 States and the District of Columbia.

§ 22907. Consolidated rail infrastructure and safety improvements

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to an eligible recipient to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability.

(b) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under this section:

(1) A State.

(2) A group of States.

(3) An Interstate Compact.

(4) A public agency or publicly chartered authority established by 1 or more States.

(5) A political subdivision of a State.

(6) Amtrak or another rail carrier that provides intercity rail passenger transportation (as defined in section 24102).

(7) A Class II railroad or Class III railroad (as those terms are defined in section 20102).

(8) Any rail carrier or rail equipment manufacturer in partnership with at least 1 of the entities described in paragraphs (1) through (5).

(9) The Transportation Research Board and any entity with which it contracts in the development of rail-related research, including cooperative research programs.

(10) A University transportation center engaged in rail-related research.

(11) A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

(12) A commuter authority (as such term is defined in section 24102).

(13) The District of Columbia.

(c) ELIGIBLE PROJECTS.—The following projects are eligible to receive grants under this section:

(1) Deployment*, maintenance, and upgrades* of railroad safety technology, including positive train control and rail integrity inspection systems.

(2) A capital project **[**as defined in section 22901(2), except that a project shall not be required to be in a State rail plan developed under chapter 227**]**.

(3) A capital project identified by the Secretary as being necessary to address congestion *or safety* challenges affecting rail service.

(4) A capital project **[**identified by the Secretary as being necessary to reduce congestion and facilitate ridership growth in intercity passenger rail transportation**]** *to reduce congestion, improve service, or facilitate ridership growth in intercity rail passenger transportation and commuter rail passenger transportation (as such term is defined in section 24102)* along heavily traveled rail corridors.

(5) A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies, highway traffic signalization, highway lighting and crossing approach signage, roadway improvements such as medians or other barriers, railroad crossing panels and surfaces, and safety engineering improvements to reduce risk in quiet zones or potential quiet zones *or to establish new quiet zones*.

(6) A rail line relocation and improvement project.

(7) A capital project to improve short-line or regional railroad infrastructure.

(8) The preparation of regional rail and corridor service development plans and corresponding environmental analyses.

(9) Any project that the Secretary considers necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity rail passenger transportation *or commuter rail passenger transportation (as such term is defined in section 24102)* and intercity bus service or commercial air service.

(10) The development and implementation of a safety program or institute designed to improve rail safety.

(11) Any research that the Secretary considers necessary to advance any particular aspect of rail-related capital, operations, or safety improvements.

(12) Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

(d) APPLICATION PROCESS.—The Secretary shall prescribe the form and manner of filing an application under this section.

(e) PROJECT SELECTION CRITERIA.—

[(1) IN GENERAL.—In selecting a recipient of a grant for an eligible project, the Secretary shall—

[(A) give preference to a proposed project for which the proposed Federal share of total project costs does not exceed 50 percent; and

[(B) after factoring in preference to projects under subparagraph (A), select projects that will maximize the net benefits of the funds appropriated for use under this section, considering the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project and factoring in the other considerations described in paragraph (2).]

(1) IN GENERAL.—In selecting a recipient of a grant for an eligible project, the Secretary shall give preference to—

(A) projects that will maximize the net benefits of the funds made available for use under this section, considering the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project and factoring in the other considerations described in paragraph (2); and

(B) projects that benefit a station that—

(i) serves Amtrak and commuter rail;

(ii) is listed amongst the 25 stations with highest ridership in the most recent Amtrak Company Profile; and

(iii) has support from both Amtrak and the provider of commuter rail passenger transportation servicing the station.

(2) OTHER CONSIDERATIONS.—The Secretary shall also consider the following:

(A) The degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the project.

(B) The recipient's past performance in developing and delivering similar projects, and previous financial contributions.

(C) Whether the recipient has or will have the legal, financial, and technical capacity to carry out the proposed project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(D) If applicable, the consistency of the proposed project with planning guidance and documents set forth by the Secretary or required by law or State rail plans developed under chapter 227.

(E) If applicable, any technical evaluation ratings the proposed project received under previous competitive grant programs administered by the Secretary.

(F) Such other factors as the Secretary considers relevant to the successful delivery of the project.

(3) BENEFITS.—The benefits described in paragraph (1)(B) may include the effects on system and service performance, including measures such as improved safety, competitiveness, reliability, trip or transit time, resilience, efficiencies from improved integration with other modes, the ability to meet existing or anticipated demand, and any other benefits.

(f) PERFORMANCE MEASURES.—The Secretary shall establish performance measures for each grant recipient to assess progress in achieving strategic goals and objectives. The Secretary may require a grant recipient to periodically report information related to such performance measures.

(g) RURAL AREAS.—

(1) IN GENERAL.—Of the amounts appropriated under this section, at least 25 percent shall be available for projects in rural areas. The Secretary shall consider a project to be in a rural area if all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a rural area.

(2) DEFINITION OF RURAL AREA.—In this subsection, the term "rural area" means any area not in an urbanized area, as defined by the Bureau of the Census.

(h) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COSTS.—The Secretary shall estimate the total costs of a project under this section based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total project costs under this section shall not exceed 80 percent.

(3) TREATMENT OF PASSENGER RAIL REVENUE.—If Amtrak or another rail carrier is an applicant under this section, Amtrak or the other rail carrier, as applicable, may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(i) LARGE PROJECTS.—Of the amounts made available under this section, at least 50 percent shall be for projects that have total project costs of greater than $100,000,000.

(j) COMMUTER RAIL.—

(1) ADMINISTRATION OF FUNDS.—The amounts awarded under this section for commuter rail passenger transportation projects shall be transferred by the Secretary, after selection, to the Federal Transit Administration for administration of funds in accordance with chapter 53.

(2) GRANT CONDITION.—

(A) IN GENERAL.—As a condition of receiving a grant under this section that is used to acquire, construct, or improve railroad right-of-way or facilities, any employee covered by the Railway Labor Act (45 U.S.C. 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements established under section 22905(e).

(B) APPLICATION OF PROTECTIVE ARRANGEMENT.—The grant recipient and the successors, assigns, and contractors of such recipient shall be bound by the protective arrangements required under subparagraph (A). Such recipient shall be responsible for the implementation of such arrangement and for the obligations under such arrangement, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

(3) APPLICATION OF LAW.—Subsections (g) and (f)(1) of section 22905 shall not apply to grants awarded under this section for commuter rail passenger transportation projects.

(k) DEFINITION OF CAPITAL PROJECT.—In this section, the term "capital project" means a project or program for—

(1) acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(2) rehabilitating, remanufacturing, or overhauling rail rolling stock and facilities;

(3) costs associated with developing State rail plans; and

(4) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 22904.

[(i)**]** *(k)* APPLICABILITY.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the requirements of this chapter.

[(j)**]** *(l)* AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

[(k)] *(m)* LIMITATION.—The requirements under sections 22902, 22903, and 22904, and the definition contained in section 22901(1) shall not apply to this section.

[(l)] *(n)* SPECIAL TRANSPORTATION CIRCUMSTANCES.—

(1) IN GENERAL.—In carrying out this chapter, the [Secretary shall] *Secretary may* allocate an appropriate portion of the amounts available to programs in this chapter to provide grants to States—

(A) in which there is no intercity passenger rail service, for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 227 that provide public benefits (as defined in chapter 227), as determined by the Secretary; or

(B) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

(2) DEFINITION.—For the purposes of this subsection, the term "appropriate portion" means a share, for each State subject to paragraph (1), not less than the share of the total railroad route miles in such State of the total railroad route miles in the United States, excluding from all totals the route miles exclusively used for tourist, scenic, and excursion railroad operations.

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PART C—PASSENGER TRANSPORTATION

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CHAPTER 241—GENERAL

* * * * * * *

§ 24101. Findings, mission, and goals

(a) FINDINGS.—(1) Public convenience and necessity require that Amtrak[, to the extent its budget allows,] provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation [between crowded urban areas and in other areas of] *throughout* the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways[.], *thereby providing additional capacity for the traveling public and widespread air quality benefits.*

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A [greater] *high* degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services

and equipment [to Amtrak to achieve a performance level sufficient to justify expending public money] *in order to meet the intercity passenger rail needs of the United States*.

(5) Modern and efficient *intercity and* commuter rail passenger transportation is important to the viability and well-being of major urban areas and to [the energy conservation and self-sufficiency] *addressing climate change, energy conservation, and self-sufficiency* goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation [through its subsidiary, Amtrak Commuter,] under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(9) Long-distance intercity passenger rail is an important part of the national transportation system.

(10) Investments in intercity and commuter rail passenger transportation support jobs that provide a pathway to the middle class.

(b) MISSION.—[The mission of Amtrak is to provide efficient and effective intercity passenger rail mobility consisting of high quality service that is trip-time competitive with other intercity travel options and that is consistent] *The mission of Amtrak is to provide a safe, efficient, and high-quality national intercity passenger rail system that is trip-time competitive with other intercity travel options, consistent* with the goals set forth in subsection (c).

(c) GOALS.—Amtrak shall—

[(1) use its best business judgment in acting to minimize United States Government subsidies, including—

[(A) increasing fares;

[(B) increasing revenue from the transportation of mail and express;

[(C) reducing losses on food service;

[(D) improving its contracts with operating rail carriers;

[(E) reducing management costs; and

[(F) increasing employee productivity;]

(1) use its best business judgment in acting to maximize the benefits of public funding;

(2) [minimize Government subsidies by encouraging] *work with* State, regional, and local governments and the private sector, separately or in combination, to share the cost of providing rail passenger transportation, including the cost of operating facilities[;] *and improvements to service;*

[(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;]

(3) manage the passenger rail network in the interest of public transportation needs, including current and future Amtrak passengers;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) ⟦encourage⟧ *work with* rail carriers to assist in improving intercity rail passenger transportation;

(8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(9) provide additional or complementary intercity transportation service to ensure mobility in times of national disaster or other instances where other travel options are not adequately available;

(10) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(11) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; ⟦and⟧

⟦(12) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.⟧

(12) utilize and manage resources with a long-term perspective, including sound investments that take into account the overall lifecycle costs of an asset;

(13) ensure that service is accessible and accommodating to passengers with disabilities; and

(14) maximize the benefits Amtrak generates for the United States by creating quality jobs and supporting the domestic workforce.

⟦(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(12) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013. Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies.⟧

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§ 24103. Enforcement

(a) GENERAL.—(1) Except as provided in paragraph (2) of this subsection *and section 24308(c)*, only the Attorney General may

bring a civil action for equitable relief in a district court of the United States when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part or chapter 229;

(B) obstructs or interferes with an activity authorized under this part or chapter 229;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part or chapter 229; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part or chapter 229;

(ii) to obstruct or interfere with an activity authorized by this part or chapter 229; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part or chapter 229.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) REVIEW OF DISCONTINUANCE OR REDUCTION.—A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action for equitable relief brought by the Attorney General.

(c) VENUE.—Except as otherwise prohibited by law, a civil action under this section may be brought in the judicial district in which Amtrak or the rail carrier resides or is found.

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CHAPTER 243—AMTRAK

Sec.
24301. Status and applicable laws.

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[24321. Food and beverage reform.**]**
24321. Amtrak food and beverage.
24322. Rolling stock purchases.
24323. Prohibition on smoking on Amtrak trains.
24324. Disaster and emergency relief program.
24324. Amtrak cybersecurity enhancement grant program.
24325. Amtrak Office of Community Outreach.

§ 24301. Status and applicable laws

(a) STATUS.—Amtrak—

(1) is a railroad carrier under section **[**20102(2)**]** *20102* and chapters 261 and 281 of this title;

(2) shall be operated and managed as a for-profit corporation *serving the public interest in reliable passenger rail service*; and

(3) is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.

(b) PRINCIPAL OFFICE AND PLACE OF BUSINESS.—The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak

shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11123, 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.

(d) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV of this title apply to Amtrak.

(e) APPLICATION OF CERTAIN ADDITIONAL LAWS.—Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code § 29–301 et seq.) apply to Amtrak. Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.

(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(h) NONAPPLICATION OF PAY PERIOD LAWS.—A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(i) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.

(j) NONAPPLICATION OF LAWS ON JOINT USE OR OPERATION OF FACILITIES AND EQUIPMENT.—Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(k) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

(A) "additional tax" means a tax or fee—

(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and

(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.

(B) "Amtrak" includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.

(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.

(m) WASTE DISPOSAL.—(1) An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations—

(A) the retrofit program shall be completed not later than October 15, 2001; and

(B) a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.

(2) Section 361 of the Public Health Service Act (42 U.S.C. 264) and other laws of the United States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.

(n) RAIL TRANSPORTATION TREATED EQUALLY.—When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that de-

partment, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.

(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between Amtrak and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.

§ 24302. Board of directors

(a) COMPOSITION AND TERMS.—

(1) The Amtrak Board of Directors (referred to in this section as the "Board") is composed of the following 10 directors, each of whom must be a citizen of the United States:

(A) The Secretary of Transportation.

(B) The President of Amtrak, who shall serve as a nonvoting member of the Board.

[(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, or passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government.**]**

(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with a record of support for national passenger rail service, general business and financial experience, and transportation qualifications or expertise. Of the individuals appointed—

(i) 1 shall be a Mayor or Governor of a location served by a regularly scheduled Amtrak service on the Northeast Corridor;

(ii) 1 shall be a Mayor or Governor of a location served by a regularly scheduled Amtrak service that is not on the Northeast Corridor;

(iii) 1 shall be a labor representative of Amtrak employees; and

(iv) 2 shall be individuals with a history of regular Amtrak ridership and an understanding of the concerns of rail passengers.

(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate and try to provide adequate and balanced representation of *users of Amtrak, including the elderly and individuals with disabilities,*

and the major geographic regions of the United States served by Amtrak.

(3) An individual appointed under paragraph (1)(C) of this subsection shall be appointed for a term of 5 years. Such term may be extended until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party. *A member of the Board appointed under clause (i) or (ii) of paragraph (1)(C) shall serve for a term of 5 years or until such member leaves the elected office such member occupied at the time such member was appointed, whichever is first.*

(4) The Board shall elect a chairman and a vice chairman, other than the President of Amtrak, from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

[(5) The Secretary may be represented at Board meetings by the Secretary's designee.]

(5) The Secretary and any Governor of a State may be represented at a Board meeting by a designee.

(b) [PAY AND EXPENSES] *DUTIES, PAY, AND EXPENSES.—Each director must consider the well-being of current and future Amtrak passengers, and the public interest in sustainable national passenger rail service.* Each director not employed by the United States Government or Amtrak is entitled to reasonable pay when performing Board duties. Each director not employed by the United States Government is entitled to reimbursement from Amtrak for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

(c) TRAVEL.—(1) Each director not employed by the United States Government shall be subject to the same travel and reimbursable business travel expense policies and guidelines that apply to Amtrak's executive management when performing Board duties.

(2) Not later than 60 days after the end of each fiscal year, the Board shall submit a report describing all travel and reimbursable business travel expenses paid to each director when performing Board duties to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) The report submitted under paragraph (2) shall include a detailed justification for any travel or reimbursable business travel expense that deviates from Amtrak's travel and reimbursable business travel expense policies and guidelines.

(d) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(e) QUORUM.—A majority of the members serving who are eligible to vote shall constitute a quorum for doing business.

(f) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

(g) GOVERNOR DEFINED.—In this section, the term "Governor" means the Governor of a State or the Mayor of the District of Columbia and includes the designee of the Governor.

* * * * * * *

§ 24305. General authority

(a) ACQUISITION AND OPERATION OF EQUIPMENT AND FACILITIES.—(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.

(b) MAINTENANCE AND REHABILITATION.—Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains [only if revenues from the services each year at least equal the cost of providing the services];

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) THROUGH ROUTES AND JOINT FARES.—(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.

(e) RAIL POLICE.—Amtrak may directly employ or contract with rail police to provide security for rail passengers and property of Amtrak. Rail police directly employed by or contracted by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be directly employed or contracted without regard to the law of another State containing those requirements.

(f) DOMESTIC BUYING PREFERENCES.—(1) In this subsection, "United States" means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, material, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured,

are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

* * * * * * *

§ 24307. Special transportation

(a) REDUCED FARE PROGRAM.—Amtrak shall maintain a reduced fare program [for the following:] *of at least a 10 percent discount on full-price coach class rail fares for, at a minimum—*

(1) individuals at least 65 years of age[.]*;*

[(2) individuals (except alcoholics and drug abusers) who—

[(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

[(B) have a record of an impairment; or

[(C) are regarded as having an impairment.]

(2) individuals of 12 years of age or younger;

(3) individuals with a disability, as such term is defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(4) members of the Armed Forces on active duty (as those terms are defined in section 101 of title 10) and their spouses and dependents with valid identification;

(5) veterans (as that term is defined in section 101 of title 38) with valid identification; and

(6) individuals attending federally-accredited postsecondary education institutions with valid student identification cards.

(b) EMPLOYEE TRANSPORTATION.—(1) In this subsection, "rail carrier employee" means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Am-

trak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Surface Transportation Board from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

§ 24308. Use of facilities and providing services to Amtrak

(a) GENERAL AUTHORITY.—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Surface Transportation Board finds it necessary to carry out this part, the Board shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Board shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Board shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Board.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the Board, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Board then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Board orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Board for relief. If the Board, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger

transportation materially will lessen the quality of freight transportation provided to shippers, the Board shall establish the rights of the carrier and Amtrak on reasonable terms. *Notwithstanding section 24103(a) and section 24308(f), Amtrak shall have the right to bring an action for equitable or other relief in the United States District Court for the District of Columbia to enforce the preference rights granted under this subsection.*

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Board for an order requiring the carrier to allow the accelerated speeds. The Board shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Board shall establish the maximum allowable speeds of Amtrak trains on terms the Board decides are reasonable.

(e) ADDITIONAL TRAINS.—**[**(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Board for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Board may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Board decides not to hold a hearing, the Board, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.**]**

(1)(A) When a rail carrier does not agree to allow Amtrak to operate additional trains over any rail line of the carrier on which Amtrak is operating or seeks to operate, Amtrak may submit an application to the Board for an order requiring the carrier to allow for the operation of the requested trains. Within 90 days of receipt of such application, the Board shall determine whether the additional trains would unreasonably impair freight transportation and—

(i) for a determination that such trains do not unreasonably impair freight transportation, order the rail carrier to allow for the operation of such trains on a schedule established by the Board; or

(ii) for a determination that such trains do unreasonably impair freight transportation, initiate a proceeding to determine any additional infrastructure investments required by, or on behalf of, Amtrak.

(B) If Amtrak seeks to resume operation of a train that Amtrak operated during the 5-year period preceding an application described in subparagraph (A), the Board shall apply a presumption that the resumed operation of such train will not unreasonably impair freight transportation unless the Board finds that there are substantially changed circumstances.

(2) **[**The Board shall consider**]** *The Board shall—*

[(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier,

with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and]

(A) in making the determination under paragraph (1), take into account any infrastructure investments proposed in Amtrak's application, with the rail carrier having the burden of demonstrating that the additional trains will unreasonably impair the freight transportation; and

(B) when establishing scheduled running times, *consider investments described in subparagraph (A) and* the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Board shall decide the dispute under subsection (a) of this section.

(4) In a proceeding initiated by the Board under paragraph (1)(B), the Board shall solicit the views of the parties and require the parties to provide any necessary data or information. Not later than 180 days after the date on which the Board makes a determination under paragraph (1)(B), the Board shall issue an order requiring the rail carrier to allow for the operation of the requested trains conditioned upon additional infrastructure or other investments needed to mitigate the unreasonable interference. In determining the necessary level of additional infrastructure or other investments, the Board shall use any criteria, assumptions, and processes it considers appropriate.

(5) The provisions of this subsection shall be in addition to any other statutory or contractual remedies Amtrak may have to obtain the right to operate the additional trains.

(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—[If the on-time] *If either the on-time* performance of any intercity passenger train*, measured at each station on its route based upon the arrival times plus 15 minutes shown in schedules Amtrak and the host railroad have agreed to or have been determined by the Surface Transportation Board pursuant to section 213 of the Passenger Rail Investment and Improvement Act of 2008 as of or subsequent to the date of enactment of the TRAIN Act,* averages less than 80 percent for any 2 consecutive calendar quarters, [or the service quality of] *or the on-time performance of* intercity passenger train operations for which minimum standards are established under section 207 of the Passenger Rail Investment and Improvement Act of 2008 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board (referred to in this section as the "Board") may initiate an investigation, or upon the filing of a complaint by Amtrak, an intercity passenger rail operator, a host freight railroad over which Amtrak operates, or an entity for which Amtrak operates intercity passenger rail service, the Board shall initiate such an investigation, to determine wheth-

er and to what extent delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over whose tracks the intercity passenger train operates or reasonably addressed by Amtrak or other intercity passenger rail operators. As part of its investigation, the Board has authority to review the accuracy of the train performance data and the extent to which scheduling and congestion contribute to delays. In making its determination or carrying out such an investigation, the Board shall obtain information from all parties involved and identify reasonable measures and make recommendations to improve the service, quality, and on-time performance of the train.

(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve **[**minimum standards investigated under paragraph (1)**]** *either performance standard under paragraph (1)* are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation as required under subsection (c), the Board may award damages against the host rail carrier, including prescribing such other relief to Amtrak as it determines to be reasonable and appropriate pursuant to paragraph (3) of this subsection.

(3) DAMAGES AND RELIEF.—In awarding damages and prescribing other relief under this subsection the Board shall consider such factors as—

(A) the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

(B) what reasonable measures would adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak on the route involved.

(4) USE OF DAMAGES.—The Board shall, as it deems appropriate, order the host rail carrier to remit the damages awarded under this subsection to Amtrak or to an entity for which Amtrak operates intercity passenger rail service. Such damages shall be used for capital or operating expenditures on the routes over which delays **[**or failures to achieve minimum standards**]** *or failure to achieve either performance standard under paragraph (1)* were the result of a rail carrier's failure to provide preference to Amtrak over freight transportation as determined in accordance with paragraph (2).

* * * * * * *

§ 24312. Labor standards

(a) PREVAILING WAGES AND HEALTH AND SAFETY STANDARDS.—Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. Amtrak may make such an agreement only after being assured that required labor standards

will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 3704 of title 40 apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(b) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with sections 3141–3144, 3146, and 3147 of title 40.

(c) CALL CENTER STAFFING.—

(1) OUTSOURCING.—Amtrak may not renew or enter into a contract to outsource call center customer service work on behalf of Amtrak, including through a business process outsourcing group.

(2) TRAINING.—Amtrak shall make available appropriate training programs to any Amtrak call center employee carrying out customer service activities using telephone or internet platforms.

(d) STATION AGENT STAFFING.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of the TRAIN Act, Amtrak shall ensure that at least 1 Amtrak ticket agent is employed at each station building where at least 1 Amtrak ticket agent was employed on or after October 1, 2017.

(2) LOCATIONS.—Notwithstanding section (1), beginning on the date that is 1 year after the date of enactment of the TRAIN Act, Amtrak shall ensure that at least 1 Amtrak ticket agent is employed at each station building—

(A) that Amtrak owns, or operates service through, as part of a passenger service route; and

(B) for which the number of passengers boarding or deboarding an Amtrak long-distance train in the previous fiscal year exceeds the average of at least 40 passengers per day over all days in which the station was serviced by Amtrak, regardless of the number of Amtrak vehicles servicing the station per day. For fiscal year 2021, ridership from fiscal year 2019 shall be used to determine qualifying stations.

(3) EXCEPTION.—This subsection does not apply to any station building in which a commuter rail ticket agent has the authority to sell Amtrak tickets.

(4) AMTRAK TICKET AGENT.—For purposes of this section, the term "Amtrak ticket agent" means an Amtrak employee with authority to sell Amtrak tickets onsite and assist in the checking of Amtrak passenger baggage.

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§ 24315. Reports and audits

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the subsidy not provided by the United States Government; and

(H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b) AMTRAK GENERAL AND LEGISLATIVE ANNUAL REPORT.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal of ⟦section 24902(b) of this title; and⟧ *section 24902(a) of this title;*

(B) shall identify the planned or proposed State-supported routes, as required under section 24712(i); and

⟦(B)⟧ *(C)* may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) SECRETARY'S REPORT ON EFFECTIVENESS OF THIS PART.—The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) COMPTROLLER GENERAL AUDITS.—The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted manage-

ment principles. The Comptroller General may prescribe regulations governing the audit.

(f) AVAILABILITY OF RECORDS AND PROPERTY OF AMTRAK AND RAIL CARRIERS.—Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) COMPTROLLER GENERAL'S REPORT TO CONGRESS.—The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.

(i) RECREATIONAL TRAIL ACCESS.—At least 30 days before implementing a new policy, structure, or operation that impedes recreational trail access, Amtrak shall work with potentially affected communities, making a good-faith effort to address local concerns about such recreational trail access. Not later than February 15 of each year, Amtrak shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on any such engagement in the preceding calendar year, and any changes to policies, structures, or operations affecting recreational trail access that were considered or made as a result. Such report shall include Amtrak's plans to mitigate the impact to such recreational trail access.

* * * * * * *

§ 24317. Accounts

(a) PURPOSE.—The purpose of this section is to—

(1) promote the effective use and stewardship by Amtrak of Amtrak revenues, Federal, State, and third party investments, appropriations, grants and other forms of financial assistance, and other sources of funds; and

(2) enhance the transparency of the assignment of revenues and costs among Amtrak business lines while ensuring the health of the Northeast Corridor and National Network.

(b) ACCOUNT STRUCTURE.—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment

Act of 2015, the Secretary of Transportation, in consultation with Amtrak, shall define an account structure and improvements to accounting methodologies, as necessary, to support, at a minimum, the Northeast Corridor and the National Network.

(c) FINANCIAL SOURCES.—In defining the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that Amtrak assigns the following:

(1) For the Northeast Corridor account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the Northeast Corridor, including—

(A) grant funds appropriated for the Northeast Corridor pursuant to section 11101(a) of the Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;

(B) compensation received from commuter rail passenger transportation providers for such providers' share of capital and operating costs on the Northeast Corridor provided to Amtrak pursuant to section 24905(c); and

(C) any operating surplus of the Northeast Corridor, as allocated pursuant to section 24318.

(2) For the National Network account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the National Network, including—

(A) grant funds appropriated for the National Network pursuant to section 11101(b) of the Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;

(B) compensation received from States provided to Amtrak pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (42 U.S.C. 24101 note); and

(C) any operating surplus of the National Network, as allocated pursuant to section 24318.

(d) FINANCIAL USES.—In defining the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that amounts assigned to the Northeast Corridor and National Network accounts shall be used by Amtrak for the following:

(1) For the Northeast Corridor, all associated costs, including—

(A) operating activities;

(B) capital activities as described in section ⟦24904(a)(2)(E)⟧ *24904(b)(2)(E)*;

(C) acquiring, rehabilitating, manufacturing, remanufacturing, overhauling, or improving equipment and associated facilities used for intercity rail passenger transportation by Northeast Corridor train services;

(D) payment of principal and interest on loans for capital projects described in this paragraph or for capital leases attributable to the Northeast Corridor;

(E) other capital projects on the Northeast Corridor, determined appropriate by the Secretary, and consistent with section 24905(c)(1)(A)(i); and

(F) if applicable, capital projects described in section ⟦24904(b)⟧ *24904(c)*.

(2) For the National Network, all associated costs, including—

(A) operating activities;

(B) capital activities; and

(C) the payment of principal and interest on loans or capital leases attributable to the National Network.

(e) IMPLEMENTATION AND REPORTING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak, in consultation with the Secretary, shall implement any account structures and improvements defined under subsection (b) so that Amtrak is able to produce profit and loss statements for each of the business lines described in section 24320(b)(1) and, as appropriate, each of the asset categories described in section 24320(c)(1) that identify sources and uses of—

(A) revenues;

(B) appropriations; and

(C) transfers between business lines.

(2) UPDATED PROFIT AND LOSS STATEMENTS.—Not later than 1 month after the implementation under paragraph (1), and monthly thereafter, Amtrak shall submit updated profit and loss statements for each of the business lines and asset categories to the Secretary.

(f) ACCOUNT MANAGEMENT.—For the purposes of account management, Amtrak may transfer funds between the Northeast Corridor account and National Network account without prior notification and approval under subsection (g) if such transfers—

(1) do not materially impact Amtrak's ability to achieve its anticipated financial, capital, and operating performance goals for the fiscal year; and

(2) would not materially change any grant agreement entered into pursuant to section 24319(d), or other agreements made pursuant to applicable Federal law.

(g) TRANSFER AUTHORITY.—

(1) IN GENERAL.—If Amtrak determines that a transfer between the accounts defined under subsection (b) does not meet the account management standards established under subsection (f), Amtrak may transfer funds between the Northeast Corridor and National Network accounts if—

(A) Amtrak notifies the Amtrak Board of Directors, including the Secretary, at least 10 days prior to the expected date of transfer; and

(B) solely for a transfer that will materially change a grant agreement, the Secretary approves.

(2) REPORT.—Not later than 5 days after the Amtrak Board of Directors receives notification from Amtrak under paragraph (1)(A), the Board shall transmit to the Secretary,

the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, a report that includes—

(A) the amount of the transfer; and

(B) a detailed explanation of the reason for the transfer, including—

(i) the effects on Amtrak services funded by the account from which the transfer is drawn, in comparison to a scenario in which no transfer was made; and

(ii) the effects on Amtrak services funded by the account receiving the transfer, in comparison to a scenario in which no transfer was made.

(3) NOTIFICATIONS.—Not later than 5 days after the date that Amtrak notifies the Amtrak Board of Directors of a transfer under paragraph (1) to or from an account, Amtrak shall transmit to the State-Supported Route Committee and Northeast Corridor Commission a letter that includes the information described under subparagraphs (A) and (B) of paragraph (2).

(h) REPORT.—Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall submit to the Secretary a report assessing the account and reporting structure established under this section and providing any recommendations for further action. Not later than 180 days after the date of receipt of such report, the Secretary shall provide an assessment that supplements Amtrak's report and submit the Amtrak report with the supplemental assessment to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(i) DEFINITION OF NORTHEAST CORRIDOR.—Notwithstanding section 24102, for purposes of this section, the term "Northeast Corridor" means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

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[§ 24321. Food and beverage reform

[(a) PLAN.—Not later than 90 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall develop and begin implementing a plan to eliminate, within 5 years of such date of enactment, the operating loss associated with providing food and beverage service on board Amtrak trains.

[(b) CONSIDERATIONS.—In developing and implementing the plan, Amtrak shall consider a combination of cost management and revenue generation initiatives, including—

[(1) scheduling optimization;

[(2) on-board logistics;

[(3) product development and supply chain efficiency;

[(4) training, awards, and accountability;

[(5) technology enhancements and process improvements; and

[(6) ticket revenue allocation.

[(c) SAVINGS CLAUSE.—Amtrak shall ensure that no Amtrak employee holding a position as of the date of enactment of the Passenger Rail Reform and Investment Act of 2015 is involuntarily separated because of—

[(1) the development and implementation of the plan required under subsection (a); or

[(2) any other action taken by Amtrak to implement this section.

[(d) NO FEDERAL FUNDING FOR OPERATING LOSSES.—Beginning on the date that is 5 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, no Federal funds may be used to cover any operating loss associated with providing food and beverage service on a route operated by Amtrak or a rail carrier that operates a route in lieu of Amtrak pursuant to section 24711.

[(e) REPORT.—Not later than 120 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, and annually thereafter for 5 years, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plan developed pursuant to subsection (a) and a description of progress in the implementation of the plan.]

§ 24321. Amtrak food and beverage

(a) ENSURING ACCESS TO FOOD AND BEVERAGE SERVICES.—On all long-distance routes, Amtrak shall ensure that all passengers who travel overnight on such route shall have access to purchasing the food and beverages that are provided to sleeping car passengers on such route.

(b) FOOD AND BEVERAGE WORKFORCE.—

(1) WORKFORCE REQUIREMENT.—Amtrak shall ensure that any individual onboard a train who prepares food and beverages is an Amtrak employee.

(2) SAVINGS CLAUSE.—No Amtrak employee holding a position as of the date of enactment of the TRAIN Act may be involuntarily separated because of any action taken by Amtrak to implement this section, including any employees who are furloughed as a result of the COVID–19 pandemic.

(c) SAVINGS CLAUSE.—Amtrak shall ensure that no Amtrak employee holding a position as of the date of enactment of the Passenger Rail Reform and Investment Act of 2015 is involuntarily separated because of the development and implementation of the plan required by the amendments made by section 11207 of such Act.

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§ 24323. Prohibition on smoking on Amtrak trains

(a) PROHIBITION.—Beginning on the date of enactment of the TRAIN Act, Amtrak shall prohibit smoking on board Amtrak trains.

(b) ELECTRONIC CIGARETTES.—

(1) INCLUSION.—The use of an electronic cigarette shall be treated as smoking for purposes of this section.

(2) ELECTRONIC CIGARETTE DEFINED.—In this section, the term "electronic cigarette" means a device that delivers nicotine or other substances to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.

§ 24324. Disaster and emergency relief program

(a) IN GENERAL.—The Secretary of Transportation may make grants to Amtrak for—

(1) capital projects to repair, reconstruct, or replace equipment, infrastructure, stations, and other facilities that the Secretary determines are in danger of suffering serious damage, or have suffered serious damage, as a result of an emergency event;

(2) offset revenue lost as a result of such an event; and

(3) support continued operations following emergency events.

(b) COORDINATION OF EMERGENCY FUNDS.—Funds made available to carry out this section shall be in addition to any other funds available and shall not affect the ability of Amtrak to use any other funds otherwise authorized by law.

(c) GRANT CONDITIONS.—Grants made under this subsection (a) shall be subject to section 22905(c)(2)(A) and other such terms and conditions as the Secretary determines necessary.

(d) DEFINITION OF EMERGENCY EVENT.—In this section, the term "emergency event" has the meaning given such term in section 20103.

§ 24324. Amtrak cybersecurity enhancement grant program

(a) IN GENERAL.—The Secretary of Transportation shall make grants to Amtrak for improvements in information technology systems, including cyber resiliency improvements for Amtrak information technology assets.

(b) APPLICATION OF BEST PRACTICES.—Any cyber resiliency improvements carried out with a grant under this section shall be consistent with the principles contained in the special publication numbered 800–160 issued by the National Institute of Standards and Technology Special and any other applicable security controls published by the Institute.

(c) COORDINATION OF CYBERSECURITY FUNDS.—Funds made available to carry out this section shall be in addition to any other Federal funds and shall not affect the ability of Amtrak to use any other funds otherwise authorized by law for purposes of enhancing the cybersecurity architecture of Amtrak.

(d) GRANT CONDITIONS.—Grants made under this section shall be subject to such terms and conditions as the Secretary determines necessary.

§ 24325. Amtrak Office of Community Outreach

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the TRAIN Act, Amtrak shall establish an Office of Community Outreach to engage with communities impacted by Amtrak operations.

(b) RESPONSIBILITIES.—The Office of Community Outreach shall be responsible for—

(1) outreach and engagement with—

(A) local officials before capital improvement project plans are finalized; and

(B) local stakeholders and relevant organizations on projects of community significance;

(2) clear explanation and publication of how community members can communicate with Amtrak;

(3) the use of virtual public involvement, social media, and other web-based tools to encourage public participation and solicit public feedback; and

(4) making publicly available on the website of Amtrak, planning documents for proposed and implemented capital improvement projects.

(c) REPORT TO CONGRESS.—Not later than 1 year after the establishment of the Office of Community Outreach, and annually thereafter, Amtrak shall submit to the Committee on Transportation and Infrastructure in the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the community outreach efforts undertaken by the Amtrak Office of Community Outreach for the previous year; and

(2) identifies changes Amtrak made to capital improvement project plans after engagement with affected communities.

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CHAPTER 247—AMTRAK ROUTE SYSTEM

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§ 24712. State-supported routes operated by Amtrak

(a) STATE-SUPPORTED ROUTE COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish the State-Supported Route Committee (referred to in this section as the "Committee") to promote mutual cooperation and planning pertaining to the rail operations of Amtrak and related activities of trains operated by Amtrak on State-supported routes and to further implement section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of—

(i) members representing Amtrak;

(ii) members representing the Department of Transportation, including the Federal Railroad Administration; and

(iii) members representing States.

(B) NON-VOTING MEMBERS.—The Committee may invite and accept other non-voting members to participate in Committee activities, as appropriate.

(3) DECISIONMAKING.—The Committee shall establish a bloc voting system under which, at a minimum—

(A) there are 3 separate voting blocs to represent the Committee's voting members, including—

(i) 1 voting bloc to represent the members described in paragraph (2)(A)(i);

(ii) 1 voting bloc to represent the members described in paragraph (2)(A)(ii); and

(iii) 1 voting bloc to represent the members described in paragraph (2)(A)(iii);

(B) each voting bloc has 1 vote;

(C) the vote of the voting bloc representing the members described in paragraph (2)(A)(iii) requires the support of at least two-thirds of that voting bloc's members; and

(D) the Committee makes decisions by unanimous consent of the 3 voting blocs.

(4) MEETINGS; RULES AND PROCEDURES.—[The Committee shall convene a meeting and shall define and implement the rules and procedures governing the Committee's proceedings not later than 180 days after the date of establishment of the Committee by the Secretary.] *The Committee shall define and periodically update the rules and procedures governing the Committee's proceedings.* The rules and procedures shall—

(A) incorporate and further describe the decision-making procedures to be used in accordance with paragraph (3); and

(B) be adopted in accordance with such decision-making procedures.

(5) COMMITTEE DECISIONS.—Decisions made by the Committee in accordance with the Committee's rules and procedures, once established, are binding on all Committee members.

(6) COST ALLOCATION METHODOLOGY.—

(A) IN GENERAL.—Subject to subparagraph (B), the Committee may amend the cost allocation methodology required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

[(B) PROCEDURES FOR CHANGING METHODOLOGY.—The rules and procedures implemented under paragraph (4) shall include procedures for changing the cost allocation methodology.]

(B) PROCEDURES.—The rules and procedures implemented under paragraph (4) shall include—

(i) procedures for changing the cost allocation methodology, notwithstanding section 209(b) of the Passenger Rail Investment and Improvement Act (49 U.S.C. 24101 note); and

(ii) procedures or broad guidelines for conducting financial planning, including operating and capital forecasting, reporting, and data sharing and governance.

(C) REQUIREMENTS.—The cost allocation methodology shall—

(i) ensure equal treatment in the provision of like services of all States and groups of States; [and]

(ii) allocate to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route[.]*; and*

(iii) promote increased efficiency in Amtrak's operating and capital activities.

(D) ANNUAL REVIEW.—Not later than June 30 of each year, the Committee shall prepare an evaluation of the cost allocation methodology and procedures under subparagraph (B) and transmit such evaluation to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) INVOICES AND REPORTS.—Not later than April 15, 2016, and monthly thereafter, Amtrak shall provide to each State that sponsors a State-supported route a monthly invoice of the cost of operating such route, including fixed costs and third-party costs. The Committee shall determine the frequency and contents of financial and performance reports that Amtrak shall provide to the States *and to the Committee*, as well as the planning and demand reports that the States shall provide to Amtrak *and the Committee. Not later than 180 days after the date of enactment of the TRAIN Act, the Committee shall develop a report that contains the general ledger data and operating statistics from Amtrak's accounting systems used to calculate payments to States. Amtrak shall provide to the States and the Committee the report for the prior month not later than 30 days after the last day of each month*.

(c) DISPUTE RESOLUTION.—

(1) REQUEST FOR DISPUTE RESOLUTION.—If a dispute arises with respect to the rules and procedures implemented under subsection (a)(4), an invoice or a report provided under subsection (b), implementation or compliance with the cost allocation methodology developed under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) or amended under subsection (a)(6) of this section, either Amtrak or the State may request that the Surface Transportation Board conduct dispute resolution under this subsection.

(2) PROCEDURES.—The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this subsection, which may include provision of professional mediation services.

(3) BINDING EFFECT.—A decision of the Surface Transportation Board under this subsection shall be binding on the parties to the dispute.

(4) OBLIGATION.—Nothing in this subsection shall affect the obligation of a State to pay an amount not in dispute.

(d) ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide assistance to the parties in the course of negotiations for a contract for operation of a State-supported route.

(2) FINANCIAL ASSISTANCE.—From among available funds, the Secretary shall provide—

(A) financial assistance to Amtrak or 1 or more States to perform requested independent technical analysis of issues before the Committee; and

(B) administrative expenses that the Secretary determines necessary.

(e) PERFORMANCE METRICS.—In negotiating a contract for operation of a State-supported route, Amtrak and the State or States that sponsor the route shall consider including provisions that provide penalties and incentives for performance*, including incentives to increase revenue, reduce costs, finalize contracts by the beginning of the fiscal year, and require States to promptly make payments for services delivered*.

(f) STATEMENT OF GOALS AND OBJECTIVES.—

(1) IN GENERAL.—The Committee shall develop *and annually review and update, as necessary,* a statement of goals, objectives, and associated recommendations concerning the future of State-supported routes operated by Amtrak. The statement shall identify the roles and responsibilities of Committee members and any other relevant entities, such as host railroads, in meeting the identified goals and objectives, or carrying out the recommendations. *The statement shall include a list of capital projects, including infrastructure, fleet, station, and facility initiatives, needed to support the growth of State-supported routes.* The Committee may consult with such relevant entities, as the Committee considers appropriate, when developing the statement.

(2) TRANSMISSION OF STATEMENT OF GOALS AND OBJECTIVES.—**[**Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Committee shall transmit the statement**]** *The Committee shall transmit, not later than March 31 of each year, the most recent annual update to the statement* developed under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(3) SENSE OF CONGRESS.—It is the sense of Congress that the Committee shall be the forum where Amtrak and States collaborate on the planning, improvement, and development of cor-

ridor routes across the National Network. The Committee shall identify obstacles to intercity passenger rail growth and identify solutions to overcome such obstacles.

(g) NEW STATE-SUPPORTED ROUTES.—

(1) CONSULTATION.—In developing a new State-supported route, Amtrak shall consult with the following:

(A) The State or States and local municipalities where such new service would operate.

(B) Commuter authorities and regional transportation authorities (as such terms are defined in section 24102) in the areas that would be served by the planned route.

(C) Host railroads.

(D) Administrator of the Federal Railroad Administration.

(E) Other stakeholders, as appropriate.

(2) STATE COMMITMENTS.—Notwithstanding any other provision of law, before beginning construction necessary for, or beginning operation of, a State-supported route that is initiated on or after the date of enactment of the TRAIN Act, Amtrak shall enter into a memorandum of understanding, or otherwise secure an agreement, with the State in which such route will operate for sharing—

(A) ongoing operating costs and capital costs in accordance with the cost allocation methodology described under subsection (a); or

(B) ongoing operating costs and capital costs in accordance with the alternative cost allocation schedule described in paragraph (3).

(3) ALTERNATIVE COST ALLOCATION.—Under the alternative cost allocation schedule described in this paragraph, with respect to costs not covered by revenues for the operation of the new State-supported route, Amtrak shall pay—

(A) the share Amtrak otherwise would have paid under the cost allocation methodology under subsection (a); and

(B) a percentage of the share that the State otherwise would have paid under the cost allocation methodology under subsection (a) according to the following:

(i) Amtrak shall pay up to 100 percent of the capital costs necessary to initiate a new State-supported route, including planning and development, design, and environmental analysis, prior to beginning operations on the new route.

(ii) For the first 2 years of operation, Amtrak shall pay for 100 percent of operating costs and capital costs.

(iii) For the third year of operation, Amtrak shall pay 90 percent of operating costs and capital costs and the State shall pay the remainder.

(iv) For the fourth year of operation, Amtrak shall pay 80 percent of operating costs and capital costs and the State shall pay the remainder

(v) For the fifth year of operation, Amtrak shall pay 50 percent of operating costs and capital costs and the State shall pay the remainder.

(vi) For the sixth year of operation and thereafter, operating costs and capital costs shall be allocated in accordance with the cost allocation methodology described under subsection (a), as applicable.

(4) APPLICATION OF TERMS.—In this subsection, the terms "capital cost" and "operating cost" shall apply in the same manner as such terms apply under the cost allocation methodology developed under subsection (a).

(h) COST ALLOCATION METHODOLOGY AND IMPLEMENTATION REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of the TRAIN Act, the Committee shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing potential improvements to the cost allocation methodology required and approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) REPORT CONTENTS.—The report required under paragraph (1) shall—

(A) identify improvements to the cost allocation methodology that would promote—

(i) transparency of route and train costs and revenues;

(ii) facilitation of service and network growth;

(iii) improved services for the traveling public;

(iv) maintenance or achievement of labor collective bargaining agreements;

(v) increased revenues; and

(vi) reduced costs;

(B) describe the various contracting approaches used in State-supported services between States and Amtrak, including the method, amount, and timeliness of payments for each State-supported service;

(C) evaluate the potential benefits and feasibility, including identifying any necessary statutory changes, of implementing a service pricing model for State-supported routes in lieu of a cost allocation methodology and how such a service pricing model would advance the priorities described in subparagraph (A); and

(D) summarize share of costs from the cost allocation methodology that are—

(i) assigned;

(ii) allocated regionally or locally; and

(iii) allocated nationally.

(3) UPDATE TO THE METHODOLOGY.—Not later than 2 years after the implementation of the TRAIN Act, the Committee shall update the methodology, if necessary, based on the findings of the report required under paragraph (1).

(i) IDENTIFICATION OF STATE-SUPPORTED ROUTE CHANGES.—Amtrak shall provide an update in the general and legislative annual report under section 24315(b) of planned or proposed changes

to State-supported routes, including the introduction of new State-supported routes. In identifying routes to be included in such request, Amtrak shall—

(1) identify the timeframe in which such changes could take effect and whether Amtrak has entered into a commitment with a State under subsection (g)(2); and

(2) consult with the Committee and any additional States in which proposed routes may operate, not less than 120 days before the annual grant request is transmitted to the Secretary.

[(g)**]** *(j)* RULE OF CONSTRUCTION.—The decisions of the Committee—

(1) shall pertain to the rail operations of Amtrak and related activities of trains operated by Amtrak on State-sponsored routes; and

(2) shall not pertain to the rail operations or related activities of services operated by other rail carriers on State-supported routes.

[(h)**]** *(k)* DEFINITION OF STATE.—In this section, the term "State" means any of the 50 States, including the District of Columbia, that sponsor the operation of trains by Amtrak on a State-supported route, or a public entity that sponsors such operation on such a route.

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CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

* * * * * * *

§ 24904. Northeast Corridor planning

(a) STRATEGIC DEVELOPMENT PLAN.—

(1) REQUIREMENT.—Not later than December 31, 2021, the Northeast Corridor Commission established under section 24905 (referred to in this section as the "Commission") shall submit to Congress a strategic development plan that identifies key state-of-good-repair, capacity expansion, and capital improvement projects planned for the Northeast Corridor, to upgrade aging infrastructure and improve the reliability, capacity, connectivity, performance, and resiliency of passenger rail service on the Northeast Corridor.

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

(A) provide a coordinated and consensus-based plan covering a period of 15 years;

(B) identify service objectives and capital investments needs;

(C) provide a delivery-constrained strategy that identifies capital investment phasing, an evaluation of workforce needs, and strategies for managing resources and mitigating construction impacts on operations;

(D) include a financial strategy that identifies funding needs and potential sources and includes an economic impact analysis; and

(E) be updated at least every 5 years.

[(a)] *(b)* NORTHEAST CORRIDOR CAPITAL INVESTMENT PLAN.—

(1) REQUIREMENT.—[Not later than May 1 of each year, the Northeast Corridor Commission established under section 24905 (referred to in this section as the "Commission") shall] *Not later than November 1 of each year, the Commission shall—*

(A) develop [a capital investment plan] *an annual capital investment plan* for the Northeast Corridor; and

(B) submit the capital investment plan to the Secretary of Transportation and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The capital investment plan shall—

(A) reflect coordination [and network optimization] across the entire Northeast Corridor;

(B) integrate the individual capital [and service] plans developed by each operator using the methods described in the cost allocation policy developed under section 24905(c);

(C) cover a period of 5 fiscal years, beginning with the [first fiscal year after the date on which] *fiscal year during which* the plan is completed;

(D) notwithstanding section 24902(b), [identify, prioritize, and phase the implementation of projects and programs to achieve the service outcomes identified in the Northeast Corridor service development plan and the asset condition needs identified in the Northeast Corridor asset management plans, once available, and consider] *document the projects and programs being undertaken to achieve the service outcomes identified in the Northeast Corridor strategic development plan, once available, and the asset condition needs identified in the Northeast Corridor asset management plans and consider—*

(i) the benefits and costs of capital investments in the plan;

(ii) project and program readiness;

(iii) the operational impacts; and

(iv) Federal and non-Federal funding availability;

(E) categorize capital projects and programs as primarily associated with—

(i) [normalized capital replacement and] basic infrastructure renewals;

(ii) replacement or rehabilitation of major Northeast Corridor infrastructure assets, including tunnels, bridges, stations, and other assets;

(iii) statutory, regulatory, or other legal mandates;

(iv) improvements to support service enhancements or growth; or

(v) strategic initiatives that will improve overall operational performance or lower costs;

(F) identify capital projects and programs that are associated with more than 1 category described in subparagraph (E);

(G) describe the anticipated outcomes of each project or program, including an assessment of—

(i) the potential effect on passenger accessibility, operations, safety, reliability, and resiliency;

(ii) the ability of infrastructure owners and operators to meet regulatory requirements if the project or program is not funded; and

(iii) the benefits and costs; and

(H) include a financial plan.

(3) FINANCIAL PLAN.—The financial plan under paragraph (2)(H) shall—

(A) identify funding sources and financing methods;

(B) identify the [expected allocated shares of costs] *status of cost sharing agreements* pursuant to the cost allocation policy developed under section 24905(c);

(C) identify the projects and programs that the Commission expects will receive Federal financial assistance; and

(D) identify the eligible entity or entities that the Commission expects will receive the Federal financial assistance described under subparagraph (C) and implement each capital project.

[(b)] *(c)* FAILURE TO DEVELOP A CAPITAL INVESTMENT PLAN.—If a capital investment plan has not been developed by the Commission for a given fiscal year, then the funds assigned to the Northeast Corridor account established under section 24317(b) for that fiscal year [may be spent only on—]

[(1) capital projects described in clause (i) or (iii) of subsection (a)(2)(E) of this section; or

[(2) capital projects described in subsection (a)(2)(E)(iv) or (v) of this section that are for the sole benefit of Amtrak.] *may be spent only on capital projects and programs contained in the Commission's capital investment plan from the previous year.*

[(c) NORTHEAST CORRIDOR ASSET MANAGEMENT.—

[(1) CONTENTS.—With regard to its infrastructure, Amtrak and each State and public transportation entity that owns infrastructure that supports or provides for intercity rail passenger transportation on the Northeast Corridor shall develop an asset management system and develop and update, as necessary, a Northeast Corridor asset management plan for each service territory described in subsection (a) that—

[(A) is consistent with the Federal Transit Administration process, as authorized under section 5326, when implemented; and

[(B) includes, at a minimum—

[(i) an inventory of all capital assets owned by the developer of the asset management plan;

[(ii) an assessment of asset condition;

[(iii) a description of the resources and processes necessary to bring or maintain those assets in a state

of good repair, including decision-support tools and investment prioritization methods; and

[(iv) a description of changes in asset condition since the previous version of the plan.

[(2) TRANSMITTAL.—Each entity described in paragraph (1) shall transmit to the Commission—

[(A) not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, a Northeast Corridor asset management plan developed under paragraph (1); and

[(B) at least biennially thereafter, an update to such plan.

[(d) NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN UPDATES.—Not less frequently than once every 10 years, the Commission shall update the Northeast Corridor service development plan.]

(d) REVIEW AND COORDINATION.—The Commission shall gather information from Amtrak, the States in which the Northeast Corridor is located, and commuter rail authorities to support development of the capital investment plan. The Commission may specify a format and other criteria for the information submitted. Submissions to the plan from Amtrak, States in which the Northeast Corridor are located, and commuter rail authorities shall be provided to the Commission in a manner that allows for a reasonable period of review by, and coordination with, affected agencies.

(e) NORTHEAST CORRIDOR ASSET MANAGEMENT.—

(1) CONTENTS.—With regard to existing infrastructure, Amtrak and other infrastructure owners that provide or support intercity rail passenger transportation on the Northeast Corridor shall develop an asset management system, and use and update such system as necessary, to develop submissions to the Northeast Corridor capital investment plan described in subsection (b). Such system shall—

(A) be consistent with the Federal Transit Administration process, as authorized under section 5326, when implemented; and

(B) include, at a minimum—

(i) an inventory of all capital assets owned by the developer of the plan;

(ii) an assessment of asset condition;

(iii) a description of the resources and processes necessary to bring or maintain those assets in a state of good repair; and

(iv) a description of changes in asset condition since the previous version of the plan.

[(e)] *(f)* DEFINITION OF NORTHEAST CORRIDOR.—In this section, the term "Northeast Corridor" means the main line between Boston, Massachusetts, and the District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, including the facilities and services used to operate and maintain those lines.

§ 24905. Northeast Corridor Commission; Safety Committee

(a) NORTHEAST CORRIDOR COMMISSION.—

(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Secretary of Transportation shall establish a Northeast Corridor Commission (referred to in this section as the "Commission") to promote mutual cooperation and planning pertaining to the rail operations, infrastructure investments, and related activities of the Northeast Corridor. The Commission shall be made up of—

(A) [members] *4 members* representing Amtrak;

(B) [members] *5 members* representing the Department of Transportation, including the Office of the Secretary, the Federal Railroad Administration, and the Federal Transit Administration;

(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

(D) non-voting representatives of freight [and commuter railroad carriers using the Northeast Corridor selected by the Secretary] *railroad carriers and commuter authorities using the Northeast Corridor, as determined by the Commission*.

[(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.]

(2) At least 2 of the members described in paragraph (1)(B) shall be career appointees, as such term is defined in section 3132(a) of title 5.

(3) The Commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the Commission shall develop rules and procedures to govern the Commission's proceedings.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(6) The members of the Commission shall elect co-chairs consisting of 1 member described in paragraph (1)(B) and 1 member described in paragraph (1)(C).

(7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(10) The Commission shall consult with other entities as appropriate.

(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

(1) STATEMENT OF GOALS.—The Commission shall develop and periodically update a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement developed under this section addressing, as appropriate—

(A) short-term and long-term capital investment needs;

(B) future funding requirements for capital improvements and maintenance;

(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

(D) opportunities for additional non-rail uses of the Northeast Corridor;

(E) scheduling and dispatching;

(F) safety and security enhancements;

(G) equipment design;

(H) marketing of rail services;

(I) future capacity requirements; and

(J) potential funding and financing mechanisms for projects of corridor-wide significance.

(3) SUBMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PERFORMANCE REPORTS.—The Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) any updates made to the statement of goals developed under paragraph (1) not later than 60 days after such updates are made; and

(B) annual performance reports and recommendations for improvements, as appropriate, issued not later than March 31 of each year, for the prior fiscal year, which summarize—

(i) the operations and performance of commuter, intercity, and freight rail transportation*, including ridership trends,* along the Northeast Corridor; and

(ii) the delivery of the [capital investment plan described in section 24904.] *first year of the capital investment plan described in section 24904; and*

(iii) progress in assessing and eliminating the state-of-good-repair backlog.

(c) ALLOCATION OF COSTS.—

[(1) DEVELOPMENT OF POLICY.—] [The Commission shall—]

[(A) develop a standardized policy]

(1) POLICY.—The Commission shall—

(A) maintain and update, as appropriate, the "Northeast Corridor Commuter and Intercity Rail Cost Allocation Policy" approved on September 17, 2015, for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including but not limited to, any capital infrastructure investments and in-kind services;

(B) develop [a proposed timetable for implementing] *timetables for implementing and maintaining* the policy;

(C) submit [the policy and the timetable] *updates to the policy and the timetables* developed under subparagraph (B) to the Surface Transportation Board, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives;

[(D) not later than October 1, 2015, adopt and implement the policy in accordance with the timetable; and]

(D) support the efforts of the members of the Commission to implement the policy in accordance with such timetables; and

(E) with the consent of a majority of its members, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-

binding mediation to reach an agreement under this section.

(2) IMPLEMENTATION.—[Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the policy developed under paragraph (1) in accordance with the timetable established therein.] *In accordance with the timetable developed in paragraph (1), Amtrak and commuter authorities on the Northeast Corridor shall implement the policy developed under paragraph (1) in agreements for usage of facilities or services.* If the entities [fail to implement such new agreements] *fail to implement the policy* in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall determine the appropriate compensation for such usage in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under [paragraph (1)(A), as applicable] *paragraph (1)*. The Surface Transportation Board shall enforce its determination on the party or parties involved.

(3) REVISIONS.—The Commission may make necessary revisions to the policy developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed pursuant to section 203 of the Passenger Rail Investment and Improvement Act of 2008.

(4) REQUEST FOR DISPUTE RESOLUTION.—If a dispute arises with the implementation of, or compliance with, the policy developed under paragraph (1), the Commission, Amtrak, or [public authorities providing commuter rail passenger transportation] *commuter authorities* on the Northeast Corridor may request that the Surface Transportation Board conduct dispute resolution. The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this paragraph, which may include the provision of professional mediation services.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the use of the Commission and the Northeast Corridor Safety Committee such sums as may be necessary to carry out this section during fiscal years 2016 through 2020, in addition to any amounts withheld under section 11101(g) of the Passenger Rail Reform and Investment Act of 2015.]

[(e)] *(d)* NORTHEAST CORRIDOR SAFETY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

(A) the Department of Transportation, including the Federal Railroad Administration;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) [commuter rail agencies] *commuter authorities*;
(E) rail passengers;
(F) rail labor; and
(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

(2) SUNSET.—The Committee established under this subsection ceases to exist on the date that the Secretary determines positive train control, as required by section 20157, is fully implemented along the Northeast Corridor.

* * * * * * *

§ 24911. Federal-State partnership for state of good repair

(a) DEFINITIONS.—In this section:
(1) APPLICANT.—The term "applicant" means—
(A) a State (including the District of Columbia);
(B) a group of States;
(C) an Interstate Compact;
(D) a public agency or publicly chartered authority established by 1 or more States;
(E) a political subdivision of a State;
(F) Amtrak, acting on its own behalf or under a cooperative agreement with 1 or more States; or
(G) any combination of the entities described in subparagraphs (A) through (F).
(2) CAPITAL PROJECT.—The term "capital project" means—
(A) a project primarily intended to replace, rehabilitate, or repair major infrastructure assets utilized for providing intercity rail passenger service, including tunnels, bridges, stations, and other assets, as determined by the Secretary; or
(B) a project primarily intended to improve intercity passenger rail performance, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements, as determined by the Secretary.
(3) INTERCITY RAIL PASSENGER TRANSPORTATION.—The term "intercity rail passenger transportation" has the meaning given the term in section 24102.
(4) NORTHEAST CORRIDOR.—The term "Northeast Corridor" means—
(A) the main rail line between Boston, Massachusetts and the District of Columbia;
(B) the branch rail lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York; and
(C) facilities and services used to operate and maintain lines described in subparagraphs (A) and (B).
(5) QUALIFIED RAILROAD ASSET.—The term "qualified railroad asset" means infrastructure, equipment, or a facility that—
(A) is owned or controlled by an eligible applicant;

(B) is contained in the planning document developed under section 24904 and for which a cost-allocation policy has been developed under section 24905(c), or is contained in an equivalent planning document and for which a similar cost-allocation policy has been developed; and

(C) was not in a state of good repair on the date of enactment of the Passenger Rail Reform and Investment Act of 2015.

(b) GRANT PROGRAM AUTHORIZED.—The Secretary of Transportation shall develop and implement a program for issuing grants to applicants, on a competitive basis, to fund capital projects that reduce the state of good repair backlog with respect to qualified railroad assets.

(c) ELIGIBLE PROJECTS.—Projects eligible for grants under this section include capital projects to replace or rehabilitate qualified railroad assets, including—

(1) capital projects to replace existing assets in-kind;

(2) capital projects to replace existing assets with assets that increase capacity or provide a higher level of service;

(3) capital projects to ensure that service can be maintained while existing assets are brought to a state of good repair; and

(4) capital projects to bring existing assets into a state of good repair.

(d) PROJECT SELECTION CRITERIA.—In selecting an applicant for a grant under this section, the Secretary shall—

(1) give preference to eligible projects for which—

(A) Amtrak is not the sole applicant;

(B) applications were submitted jointly by multiple applicants; and

(C) the proposed Federal share of total project costs does not exceed 50 percent; and

(2) take into account—

(A) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including—

(i) effects on system and service performance;

(ii) effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(iii) efficiencies from improved integration with other modes; and

(iv) ability to meet existing or anticipated demand;

(B) the degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project;

(C) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;

(D) whether the applicant has, or will have—

(i) the legal, financial, and technical capacity to carry out the project;

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

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

(E) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or required by law; and

(F) any other relevant factors, as determined by the Secretary.

(e) NORTHEAST CORRIDOR PROJECTS.—

(1) COMPLIANCE WITH USAGE AGREEMENTS.—Grant funds may not be provided under this section to an eligible recipient for an eligible project located on the Northeast Corridor unless Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location on the Northeast Corridor are in compliance with section 24905(c)(2).

(2) CAPITAL INVESTMENT PLAN.—When selecting projects located on the Northeast Corridor, the Secretary shall consider the appropriate sequence and phasing of projects as contained in the Northeast Corridor capital investment plan developed pursuant to section [24904(a)] *24904(b)*.

(f) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COST.—The Secretary shall estimate the total cost of a project under this section based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total costs for a project under this section shall not exceed 80 percent.

(3) TREATMENT OF AMTRAK REVENUE.—If Amtrak is an applicant under this section, Amtrak may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(g) LETTERS OF INTENT.—

(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, issue a letter of intent to a grantee under this section that—

(A) announces an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project; and

(B) states that the contingent commitment—

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) CONGRESSIONAL NOTIFICATION.—

(A) IN GENERAL.—Not later than 30 days before issuing a letter under paragraph (1), the Secretary shall submit written notification to—

(i) the Committee on Commerce, Science, and Transportation of the Senate;

(ii) the Committee on Appropriations of the Senate;

(iii) the Committee on Transportation and Infrastructure of the House of Representatives; and

(iv) the Committee on Appropriations of the House of Representatives.

(B) CONTENTS.—The notification submitted pursuant to subparagraph (A) shall include—

(i) a copy of the proposed letter;

(ii) the criteria used under subsection (d) for selecting the project for a grant award; and

(iii) a description of how the project meets such criteria.

(3) APPROPRIATIONS REQUIRED.—An obligation or administrative commitment may be made under this section only when amounts are appropriated for such purpose.

(h) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

(i) GRANT CONDITIONS.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the grant conditions under section 22905.

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PART E—MISCELLANEOUS

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CHAPTER 281—LAW ENFORCEMENT

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§ 28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has

been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed $200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least $200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the "Federal Employers' Liability Act") or under any workers compensation Act.

(e) PROHIBITION ON CHOICE-OF-FORUM CLAUSE.—

(1) IN GENERAL.—Amtrak may not impose a choice-of-forum clause that attempts to preclude a passenger, or a person who purchases a ticket for rail transportation on behalf of a passenger, from bringing a claim against Amtrak in any court of competent jurisdiction, including a court within the jurisdiction of the residence of such passenger in the United States (provided that Amtrak does business within that jurisdiction).

(2) COURT OF COMPETENT JURISDICTION.—Under this subsection, a court of competent jurisdiction may not include an arbitration forum.

[(e)] *(f)* DEFINITION.—For purposes of this section—

(1) the term "claim" means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term "rail carrier" includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

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CHAPTER 285—COMMUTER RAIL MEDIATION

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[§ 28502. Surface Transportation Board mediation of trackage use requests

[If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use

trackage of, and have related services provided by, the rail carrier for purposes of commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

[§ 28503. Surface Transportation Board mediation of rights-of-way use requests

[If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility to provide commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.**]**

§ 28502. Surface Transportation Board mediation of trackage use requests

A rail carrier shall provide good faith consideration to a reasonable request from a provider of commuter rail passenger transportation for access to trackage and provision of related services. If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. In any case in which dispatching for the relevant trackage is controlled by a rail carrier other than the trackage owner, both shall be subject to the requirements of this section and included in the Board's mediation process. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the TRAIN Act.

§ 28503. Surface Transportation Board mediation of rights-of-way use requests

A rail carrier shall provide good faith consideration to a reasonable request from a provider of commuter rail passenger transportation for access to rail right-of-way for the construction and operation of a segregated fixed guideway facility. If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility to provide commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. In any case in which dispatching for the relevant trackage is controlled by a rail carrier other than the right-of-way owner, both shall be subject to the re-

quirements of this section and included in the Board's mediation process. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the TRAIN Act.

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SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

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PART B—COMMERCIAL

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CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

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SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS

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§ 31102. Motor carrier safety assistance program

(a) IN GENERAL.—The Secretary of Transportation shall administer a motor carrier safety assistance program funded under section 31104.

(b) GOAL.—The goal of the program is to ensure that the Secretary, States, local governments, other political jurisdictions, federally recognized Indian tribes, and other persons work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

(1) making targeted investments to promote safe commercial motor vehicle transportation, including the transportation of passengers and hazardous materials;

(2) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and in fatalities resulting from such crashes;

(3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

(4) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

(c) STATE PLANS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall prescribe procedures for a State to submit a multiple-year plan, and annual updates thereto, under which the State agrees to assume responsibility for improving motor carrier safety by adopting and enforcing State regulations, standards, and orders that are compatible with the regulations,

standards, and orders of the Federal Government on commercial motor vehicle safety and hazardous materials transportation safety.

(2) CONTENTS.—The Secretary shall approve a State plan if the Secretary determines that the plan is adequate to comply with the requirements of this section, and the plan—

(A) implements performance-based activities, including deployment and maintenance of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

(B) designates a lead State commercial motor vehicle safety agency responsible for administering the plan throughout the State;

(C) contains satisfactory assurances that the lead State commercial motor vehicle safety agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(D) contains satisfactory assurances that the State will devote adequate resources to the administration of the plan and enforcement of the regulations, standards, and orders;

(E) provides a right of entry (or other method a State may use that the Secretary determines is adequate to obtain necessary information) and inspection to carry out the plan;

(F) provides that all reports required under this section be available to the Secretary on request;

(G) provides that the lead State commercial motor vehicle safety agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations that the Secretary prescribes;

(H) requires all registrants of commercial motor vehicles to demonstrate knowledge of applicable safety regulations, standards, and orders of the Federal Government and the State;

(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standards through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

(J) ensures that activities described in subsection (h), if financed through grants to the State made under this section, will not diminish the effectiveness of the development and implementation of the programs to improve motor carrier, commercial motor vehicle, and driver safety as described in subsection (b);

(K) ensures that the lead State commercial motor vehicle safety agency will coordinate the plan, data collection, and information systems with the State highway safety improvement program required under section 148(c) of title 23;

(L) ensures participation in appropriate Federal Motor Carrier Safety Administration information technology and data systems and other information systems by all appropriate jurisdictions receiving motor carrier safety assistance program funding;

(M) ensures that information is exchanged among the States in a timely manner;

(N) provides satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

(O) provides satisfactory assurances that the State will address national priorities and performance goals, including—

(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

(iii) when conducted with an appropriate commercial motor vehicle inspection, criminal interdiction activities, and appropriate strategies for carrying out those interdiction activities, including interdiction activities that affect the transportation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) and listed in part 1308 of title 21, Code of Federal Regulations, as updated and republished from time to time) by any occupant of a commercial motor vehicle;

(P) provides that the State has established and dedicated sufficient resources to a program to ensure that—

(i) the State collects and reports to the Secretary accurate, complete, and timely motor carrier safety data; and

(ii) the State participates in a national motor carrier safety data correction system prescribed by the Secretary;

(Q) ensures that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued under those sections;

(R) ensures consistent, effective, and reasonable sanctions;

(S) ensures that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel;

(T) provides that the State will include in the training manuals for the licensing examination to drive noncommercial motor vehicles and commercial motor vehicles information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

(U) provides that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under those sections or to be operated beyond the scope of the motor carrier's registration;

(V) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors;

(W) except in the case of an imminent hazard or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop (excluding a weigh station);

(X) ensures that the State will transmit to its roadside inspectors notice of each Federal exemption granted under section 31315(b) of this title and sections 390.23 and 390.25 of title 49, Code of Federal Regulations, and provided to the State by the Secretary, including the name of the person that received the exemption and any terms and conditions that apply to the exemption;

(Y) except as provided in subsection (d), provides that the State—

(i) will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under section 31144(g); and

(ii) if the State authorizes a third party to conduct safety audits under section 31144(g) on its behalf, the State verifies the quality of the work conducted and remains solely responsible for the management and oversight of the activities;

(Z) provides that the State agrees to fully participate in the performance and registration information systems management under section 31106(b) not later than October 1, 2020, by complying with the conditions for participation under paragraph (3) of that section, or demonstrates to the Secretary an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety;

(AA) in the case of a State that shares a land border with another country, provides that the State—

(i) will conduct a border commercial motor vehicle safety program focusing on international commerce that includes enforcement and related projects; or

(ii) will forfeit all funds calculated by the Secretary based on border-related activities if the State declines to conduct the program described in clause (i) in its plan; and

(BB) in the case of a State that meets the other requirements of this section and agrees to comply with the requirements established in subsection (*l*)(3), provides that the State may fund operation and maintenance costs associated with innovative technology deployment under subsection (*l*)(3) with motor carrier safety assistance program funds authorized under section 31104(a)(1).

(3) PUBLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall publish each approved State multiple-year plan, and each annual update thereto, on a publically accessible Internet Web site of the Department of Transportation not later than 30 days after the date the Secretary approves the plan or update.

(B) LIMITATION.—Before publishing an approved State multiple-year plan or annual update under subparagraph (A), the Secretary shall redact any information identified by the State that, if disclosed—

(i) would reasonably be expected to interfere with enforcement proceedings; or

(ii) would reveal enforcement techniques or procedures that would reasonably be expected to risk circumvention of the law.

(d) EXCLUSION OF U.S. TERRITORIES.—The requirement that a State conduct safety audits of new entrant motor carriers under subsection (c)(2)(Y) does not apply to a territory of the United States unless required by the Secretary.

(e) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced under subsections (b) and (c). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish motor vehicle safety.

(f) MAINTENANCE OF EFFORT.—

(1) BASELINE.—Except as provided under paragraphs (2) and (3) and in accordance with section 5107 of the FAST Act, a State plan under subsection (c) shall provide that the total expenditure of amounts of the lead State commercial motor vehicle safety agency responsible for administering the plan will be maintained at a level each fiscal year that is at least equal to—

(A) the average level of that expenditure for fiscal years 2004 and 2005; or

(B) the level of that expenditure for the year in which the Secretary implements a new allocation formula under section 5106 of the FAST Act.

(2) ADJUSTED BASELINE AFTER FISCAL YEAR 2017.—At the request of a State, the Secretary may evaluate additional documentation related to the maintenance of effort and may make reasonable adjustments to the maintenance of effort baseline after the year in which the Secretary implements a new allocation formula under section 5106 of the FAST Act, and this adjusted baseline will replace the maintenance of effort requirement under paragraph (1).

(3) WAIVERS.—At the request of a State, the Secretary may waive or modify the requirements of this subsection for a total of 1 fiscal year if the Secretary determines that the waiver or modification is reasonable, based on circumstances described by the State, to ensure the continuation of commercial motor vehicle enforcement activities in the State.

(4) LEVEL OF STATE EXPENDITURES.—In estimating the average level of a State's expenditures under paragraph (1), the Secretary—

(A) may allow the State to exclude State expenditures for federally sponsored demonstration and pilot programs and strike forces;

(B) may allow the State to exclude expenditures for activities related to border enforcement and new entrant safety audits; and

(C) shall require the State to exclude State matching amounts used to receive Federal financing under section 31104.

(g) USE OF UNIFIED CARRIER REGISTRATION FEES AGREEMENT.—Amounts generated under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's match required under section 31104 or maintenance of effort required by subsection (f).

(h) USE OF GRANTS TO ENFORCE OTHER LAWS.—When approved as part of a State's plan under subsection (c), the State may use motor carrier safety assistance program funds received under this section—

(1) if the activities are carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

(A) enforcement of commercial motor vehicle size and weight limitations at locations, excluding fixed-weight facilities, such as near steep grades or mountainous terrains, where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

(B) detection of and enforcement actions taken as a result of criminal activity, including the trafficking of human beings, in a commercial motor vehicle or by any occupant, including the operator, of the commercial motor vehicle; and

(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commer-

cial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles, if—

(A) the number of motor carrier safety activities, including roadside safety inspections, conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2004 and 2005; and

(B) the State does not use more than 10 percent of the basic amount the State receives under a grant awarded under section 31104(a)(1) for enforcement activities relating to noncommercial motor vehicles necessary to promote the safe operation of commercial motor vehicles unless the Secretary determines that a higher percentage will result in significant increases in commercial motor vehicle safety.

(i) EVALUATION OF PLANS AND AWARD OF GRANTS.—

(1) AWARDS.—The Secretary shall establish criteria for the application, evaluation, and approval of State plans under this section. Subject to subsection (j), the Secretary may allocate the amounts made available under section 31104(a)(1) among the States.

(2) OPPORTUNITY TO CURE.—If the Secretary disapproves a plan under this section, the Secretary shall give the State a written explanation of the reasons for disapproval and allow the State to modify and resubmit the plan for approval.

(j) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary, by regulation, shall prescribe allocation criteria for funds made available under section 31104(a)(1).

(2) ANNUAL ALLOCATIONS.—On October 1 of each fiscal year, or as soon as practicable thereafter, and after making a deduction under section 31104(c), the Secretary shall allocate amounts made available under section 31104(a)(1) to carry out this section for the fiscal year among the States with plans approved under this section in accordance with the criteria prescribed under paragraph (1).

(3) ELECTIVE ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary to calculate the annual allocation amounts, after the creation of a new allocation formula under section 5106 of the FAST Act, the Secretary may not make elective adjustments to the allocation formula that decrease a State's Federal funding levels by more than 3 percent in a fiscal year. The 3 percent limit shall not apply to the withholding provisions of subsection (k).

(k) PLAN MONITORING.—

(1) IN GENERAL.—On the basis of reports submitted by the lead State agency responsible for administering a State plan approved under this section and an investigation by the Secretary, the Secretary shall periodically evaluate State implementation of and compliance with the State plan.

(2) WITHHOLDING OF FUNDS.—

(A) DISAPPROVAL.—If, after notice and an opportunity to be heard, the Secretary finds that a State plan previously approved under this section is not being followed or has become inadequate to ensure enforcement of State regulations, standards, or orders described in subsection (c)(1), or the State is otherwise not in compliance with the requirements of this section, the Secretary may withdraw approval of the State plan and notify the State. Upon the receipt of such notice, the State plan shall no longer be in effect and the Secretary shall withhold all funding to the State under this section.

(B) NONCOMPLIANCE WITHHOLDING.—In lieu of withdrawing approval of a State plan under subparagraph (A), the Secretary may, after providing notice to the State and an opportunity to be heard, withhold funding from the State to which the State would otherwise be entitled under this section for the period of the State's noncompliance. In exercising this option, the Secretary may withhold—

(i) up to 5 percent of funds during the fiscal year that the Secretary notifies the State of its noncompliance;

(ii) up to 10 percent of funds for the first full fiscal year of noncompliance;

(iii) up to 25 percent of funds for the second full fiscal year of noncompliance; and

(iv) not more than 50 percent of funds for the third and any subsequent full fiscal year of noncompliance.

(3) JUDICIAL REVIEW.—A State adversely affected by a determination under paragraph (2) may seek judicial review under chapter 7 of title 5. Notwithstanding the disapproval of a State plan under paragraph (2)(A) or the withholding of funds under paragraph (2)(B), the State may retain jurisdiction in an administrative or a judicial proceeding that commenced before the notice of disapproval or withholding if the issues involved are not related directly to the reasons for the disapproval or withholding.

(l) HIGH PRIORITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall administer a high priority program funded under section 31104(a)(2) for the purposes described in paragraphs (2) [and (3)]*, (3), and (4)*.

(2) ACTIVITIES RELATED TO MOTOR CARRIER SAFETY.—The Secretary may make discretionary grants to and enter into cooperative agreements with States, local governments, federally recognized Indian tribes, other political jurisdictions as necessary, and any person to carry out high priority activities and projects that augment motor carrier safety activities and projects planned in accordance with subsections (b) and (c), including activities and projects that—

(A) increase public awareness and education on commercial motor vehicle safety;

(B) target unsafe driving of commercial motor vehicles and noncommercial motor vehicles in areas identified as high risk crash corridors;

(C) improve the safe and secure movement of hazardous materials;

(D) improve safe transportation of goods and persons in foreign commerce;

(E) demonstrate new technologies to improve commercial motor vehicle safety;

(F) support participation in performance and registration information systems management under section 31106(b)—

(i) for entities not responsible for submitting the plan under subsection (c); or

(ii) for entities responsible for submitting the plan under subsection (c)—

(I) before October 1, 2020, to achieve compliance with the requirements of participation; and

(II) beginning on October 1, 2020, or once compliance is achieved, whichever is sooner, for special initiatives or projects that exceed routine operations required for participation;

(G) conduct safety data improvement projects—

(i) that complete or exceed the requirements under subsection (c)(2)(P) for entities not responsible for submitting the plan under subsection (c); or

(ii) that exceed the requirements under subsection (c)(2)(P) for entities responsible for submitting the plan under subsection (c); and

(H) otherwise improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations.

(3) INNOVATIVE TECHNOLOGY DEPLOYMENT GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish an innovative technology deployment grant program to make discretionary grants to eligible States for the innovative technology deployment of commercial motor vehicle information systems and networks.

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

(i) to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, including commercial motor vehicle, commercial driver, and carrier-specific information systems and networks; and

(ii) to support and maintain commercial motor vehicle information systems and networks—

(I) to link Federal motor carrier safety information systems with State commercial motor vehicle systems;

(II) to improve the safety and productivity of commercial motor vehicles and drivers; and

(III) to reduce costs associated with commercial motor vehicle operations and Federal and State commercial motor vehicle regulatory requirements.

(C) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State shall—

(i) have a commercial motor vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of commercial motor vehicle information systems and networks capabilities;

(ii) certify to the Secretary that its commercial motor vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(I) are consistent with the national intelligent transportation systems and commercial motor vehicle information systems and networks architectures and available standards; and

(II) promote interoperability and efficiency to the extent practicable; and

(iii) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial motor vehicle information systems and networks.

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

(i) for deployment activities and activities to develop new and innovative advanced technology solutions that support commercial motor vehicle information systems and networks;

(ii) for planning activities, including the development or updating of program or top level design plans in order to become eligible or maintain eligibility under subparagraph (C); and

(iii) for the operation and maintenance costs associated with innovative technology.

(E) SECRETARY AUTHORIZATION.—The Secretary is authorized to award a State funding for the operation and maintenance costs associated with innovative technology deployment with funds made available under sections 31104(a)(1) and 31104(a)(2).

(4) IMMOBILIZATION GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish an immobilization grant program to make discretionary grants to States for the immobilization or impoundment of pas-

senger-carrying commercial motor vehicles if such vehicles are found to be unsafe or fail inspection.

(B) CRITERIA FOR IMMOBILIZATION.—The Secretary, in consultation with State commercial motor vehicle entities, shall develop a list of commercial motor vehicle safety violations and defects that the Secretary determines warrant the immediate immobilization of a passenger-carrying commercial motor vehicle.

(C) ELIGIBILITY.—A State is only eligible to receive a grant under this paragraph if such State has the authority to require the immobilization or impoundment of a passenger-carrying commercial motor vehicle if such vehicle is found to have a violation or defect included in the list developed under subparagraph (B).

(D) USE OF FUNDS.— Grant funds provided under this paragraph may be used for—

(i) the immobilization or impoundment of passenger-carrying commercial motor vehicles found to have a violation or defect included in the list developed under subparagraph (B);

(ii) safety inspections of such vehicles; and

(iii) other activities related to the activities described in clauses (i) and (ii), as determined by the Secretary.

(E) SECRETARY AUTHORIZATION.—The Secretary is authorized to award a State funding for the costs associated with carrying out an immobilization program with funds made available under section 31104(a)(2).

(F) DEFINITION OF PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLE.—In this paragraph, the term "passenger-carrying commercial motor vehicle" has the meaning given the term commercial motor vehicle in section 31301.

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§ 31104. Authorization of appropriations

[(a) FINANCIAL ASSISTANCE PROGRAMS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

[(1) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Subject to paragraph (2) and subsection (c), to carry out section 31102 (except subsection (*l*))—

[(A) $292,600,000 for fiscal year 2017;

[(B) $298,900,000 for fiscal year 2018;

[(C) $304,300,000 for fiscal year 2019; and

[(D) $308,700,000 for fiscal year 2020.

[(2) HIGH PRIORITY ACTIVITIES PROGRAM.—Subject to subsection (c), to carry out section 31102(*l*)—

[(A) $42,200,000 for fiscal year 2017;

[(B) $43,100,000 for fiscal year 2018;

[(C) $44,000,000 for fiscal year 2019; and

[(D) $44,900,000 for fiscal year 2020.

[(3) COMMERCIAL MOTOR VEHICLE OPERATORS GRANT PROGRAM.—To carry out section 31103—

[(A) $1,000,000 for fiscal year 2017;

[(B) $1,000,000 for fiscal year 2018;

[(C) $1,000,000 for fiscal year 2019; and

[(D) $1,000,000 for fiscal year 2020.

[(4) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION PROGRAM.—Subject to subsection (c), to carry out section 31313—

[(A) $31,200,000 for fiscal year 2017;

[(B) $31,800,000 for fiscal year 2018;

[(C) $32,500,000 for fiscal year 2019; and

[(D) $33,200,000 for fiscal year 2020.]

(a) FINANCIAL ASSISTANCE PROGRAMS.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Subject to paragraph (2) and subsection (c), to carry out section 31102 (except subsection (l))—

(A) $388,950,000 for fiscal year 2022;

(B) $398,700,000 for fiscal year 2023;

(C) $408,900,000 for fiscal year 2024; and

(D) $418,425,000 for fiscal year 2025.

(2) HIGH-PRIORITY ACTIVITIES PROGRAM.—Subject to subsection (c), to carry out section 31102(l)—

(A) $72,604,000 for fiscal year 2022;

(B) $74,424,000 for fiscal year 2023;

(C) $76,328,000 for fiscal year 2024; and

(D) $78,106,000 for fiscal year 2025.

(3) COMMERCIAL MOTOR VEHICLE OPERATORS GRANT PROGRAM.—To carry out section 31103—

(A) $1,037,200 for fiscal year 2022;

(B) $1,063,200 for fiscal year 2023;

(C) $1,090,400 for fiscal year 2024; and

(D) $1,115,800 for fiscal year 2025.

(4) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION PROGRAM.—Subject to subsection (c), to carry out section 31313—

(A) $56,008,800 for fiscal year 2022;

(B) $57,412,800 for fiscal year 2023;

(C) $58,881,600 for fiscal year 2024; and

(D) $60,253,200 for fiscal year 2025.

(b) REIMBURSEMENT AND PAYMENT TO RECIPIENTS FOR GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—Amounts made available under subsection (a) shall be used to reimburse financial assistance recipients proportionally for the Federal Government's share of the costs incurred.

(2) REIMBURSEMENT AMOUNTS.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102, 31103, or 31313, an amount that is at least 85 percent of the costs incurred by the recipient in a fiscal year in developing and implementing pro-

grams under such sections. The Secretary shall pay the recipient an amount not more than the Federal Government share of the total costs approved by the Federal Government in the financial assistance agreement. The Secretary shall include a recipient's in-kind contributions in determining the reimbursement.

(3) VOUCHERS.—Each recipient shall submit vouchers at least quarterly for costs the recipient incurs in developing and implementing programs under sections 31102, 31103, and 31313.

[(c) DEDUCTIONS FOR PARTNER TRAINING AND PROGRAM SUPPORT.—On October 1 of each fiscal year, or as soon after that date as practicable, the Secretary may deduct from amounts made available under paragraphs (1), (2), and (4) of subsection (a) for that fiscal year not more than 1.50 percent of those amounts for partner training and program support in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Federal Government employees and to develop related training materials in carrying out such programs.]

(c) PARTNER TRAINING AND PROGRAM SUPPORT.—

(1) IN GENERAL.—On October 1 of each fiscal year, or as soon after that date as practicable, the Secretary may deduct from amounts made available under paragraphs (1), (2), and (4) of subsection (a) for that fiscal year not more than 1.50 percent of those amounts for partner training and program support in that fiscal year.

(2) USE OF FUNDS.—The Secretary shall use at least 75 percent of the amounts deducted under paragraph (1) on training and related training materials for non-Federal Government employees.

(3) PARTNERSHIP.—The Secretary shall carry out the training and development of materials pursuant to paragraph (2) in partnership with one or more nonprofit organizations, selected on a competitive basis, that have—

(A) expertise in conducting a training program for non-Federal Government employees; and

(B) a demonstrated ability to involve in a training program the target population of commercial motor vehicle safety enforcement employees.

(d) GRANTS AND COOPERATIVE AGREEMENTS AS CONTRACTUAL OBLIGATIONS.—The approval of a financial assistance agreement by the Secretary under section 31102, 31103, or 31313 is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs in carrying out the provisions of the grant or cooperative agreement.

(e) ELIGIBLE ACTIVITIES.—The Secretary shall establish criteria for eligible activities to be funded with financial assistance agreements under this section and publish those criteria in a notice of funding availability before the financial assistance program application period.

(f) PERIOD OF AVAILABILITY OF FINANCIAL ASSISTANCE AGREEMENT FUNDS FOR RECIPIENT EXPENDITURES.—The period of avail-

ability for a recipient to expend funds under a grant or cooperative agreement authorized under subsection (a) is as follows:

(1) For grants made for carrying out section 31102, other than section 31102(*l*), for the fiscal year in which the Secretary approves the financial assistance agreement and for **[**the next fiscal year**]** *the following 2 fiscal years*.

(2) For grants made or cooperative agreements entered into for carrying out **[**section 31102(*l*)(2)**]** *paragraphs (2) and (4) of section 31102(l)*, for the fiscal year in which the Secretary approves the financial assistance agreement and for **[**the next 2 fiscal years**]** *the following 3 fiscal years*.

(3) For grants made for carrying out section 31102(*l*)(3), for the fiscal year in which the Secretary approves the financial assistance agreement and for **[**the next 4 fiscal years**]** *the following 5 fiscal years*.

(4) For grants made for carrying out section 31103, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next fiscal year.

(5) For grants made or cooperative agreements entered into for carrying out section 31313, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(g) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(h) AVAILABILITY OF FUNDING.—Amounts made available under this section shall remain available until expended.

(i) REALLOCATION.—Amounts not expended by a recipient during the period of availability shall be released back to the Secretary for reallocation for any purpose under section 31102, 31103, or 31313 or this section to ensure, to the maximum extent possible, that all such amounts are obligated.

(j) TREATMENT OF REALLOCATIONS.—Amounts that are obligated and subsequently, after the date of enactment of this subsection, released back to the Secretary under subsection (i) shall not be subject to limitations on obligations provided under any other provision of law.

* * * * * * *

§ 31110. Authorization of appropriations

[(a) ADMINISTRATIVE EXPENSES.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

[(1) $267,400,000 for fiscal year 2016;
[(2) $277,200,000 for fiscal year 2017;
[(3) $283,000,000 for fiscal year 2018;
[(4) $284,000,000 for fiscal year 2019; and

[(5) $288,000,000 for fiscal year 2020.]

(a) ADMINISTRATIVE EXPENSES.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

(1) $380,500,000 for fiscal year 2022;
(2) $381,500,000 for fiscal year 2023;
(3) $382,500,000 for fiscal year 2024; and
(4) $384,500,000 for fiscal year 2025.

(b) USE OF FUNDS.—The funds authorized by this section shall be used for—

(1) personnel costs;
(2) administrative infrastructure;
(3) rent;
(4) information technology;
(5) programs for research and technology, information management, regulatory development, and the administration of performance and registration information systems management under section 31106(b);
(6) programs for outreach and education under subsection (c);
(7) other operating expenses;
(8) conducting safety reviews of new operators; and
(9) such other expenses as may from time to time become necessary to implement statutory mandates of the Federal Motor Carrier Safety Administration not funded from other sources.

(c) OUTREACH AND EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary may conduct, through any combination of grants, contracts, cooperative agreements, and other activities, an internal and external outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration. The program authorized under this subsection may support, in addition to funds otherwise available for such purposes, the recognition, prevention, and reporting of human trafficking, while deferring to existing resources, as practicable.

(2) FEDERAL SHARE.—The Federal share of an outreach and education project for which a grant, contract, or cooperative agreement is made under this subsection may be up to 100 percent of the cost of the project.

(3) FUNDING.—From amounts made available under subsection (a), the Secretary shall make available not more than $4,000,000 each fiscal year to carry out this subsection.

(d) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(e) FUNDING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

(f) CONTRACTUAL OBLIGATION.—The approval of funds by the Secretary under this section is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs.

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SUBCHAPTER III—SAFETY REGULATION

* * * * * * *

§ 31139. Minimum financial responsibility for transporting property

(a) DEFINITIONS.—In this section—

(1) "farm vehicle" means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) "interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GENERAL REQUIREMENT AND MINIMUM AMOUNT.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor carrier or motor private carrier (as such terms are defined in section 13102 of this title) in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least **[**$750,000**]** *$2,000,000*.

(3) ADJUSTMENT.—The Secretary, in consultation with the Bureau of Labor Statistics, shall adjust the minimum level of financial responsibility under paragraph (2) quinquennially for inflation.

(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier (as defined in section 13102) to file with the Secretary the evidence of financial responsibility specified in subsection (b) in an amount not less than the greater of the minimum amount required by this section or the amount required for such motor private carrier to transport property under the laws of the State or States in which the motor private carrier is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the motor private carrier for bodily injury to, or death of, an individual

resulting from negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both.

(d) REQUIREMENTS FOR HAZARDOUS MATTER AND OIL.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous material (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2)(A) Except as provided in subparagraph (B) of this paragraph, the level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(i) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(ii) in bulk of class A explosives, poison gas, liquefied gas, or compressed gas; or

(iii) of large quantities of radioactive material.

(B) The Secretary of Transportation by regulation may reduce the minimum level in subparagraph (A) of this paragraph (to an amount not less than $1,000,000) for transportation described in subparagraph (A) in any of the territories of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands if—

(i) the chief executive officer of the territory requests the reduction;

(ii) the reduction will prevent a serious disruption in transportation service and will not adversely affect public safety; and

(iii) insurance of $5,000,000 is not readily available.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(e) FOREIGN MOTOR CARRIERS AND PRIVATE CARRIERS.—Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(f) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(g) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).

(h) NONAPPLICATION.—This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive material.

* * * * * * *

§ 31144. Safety fitness of owners and operators

(a) IN GENERAL.—The Secretary shall—

(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

(A) in operations that affect interstate commerce within the United States; and

(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

(2) periodically update such safety fitness determinations;

(3) make such final safety fitness determinations readily available to the public; and

(4) prescribe by regulation penalties for violations of this section consistent with section 521.

(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

(c) PROHIBITED TRANSPORTATION.—

(1) IN GENERAL.—Except as provided in section 521(b)(5)(A) and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date

of such fitness determination and until the Secretary determines such owner or operator is fit. A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.

(4) SECRETARY'S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary's fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.

(d) DETERMINATION OF UNFITNESS BY STATE.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.

(e) REVIEW OF FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(f) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.

(g) SAFETY REVIEWS OF NEW OPERATORS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary shall require, by regulation, each owner and each operator granted new registration to transport passengers under section 13902 or 31134 to undergo a safety review not later than 120 days after the owner or operator, as the case may be, begins operations under such registration.

(2) ELEMENTS.—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(3) PHASE-IN OF REQUIREMENT.—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

(4) NEW ENTRANT AUTHORITY.—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed.

(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(A) IN GENERAL.—In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.

(i) PERIODIC SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) determine the safety fitness of each motor carrier of passengers [who the Secretary registers under section 13902 or 31134] through a simple and understandable rating system that allows passengers to compare the safety performance of each such motor carrier; and

(ii) assign a safety fitness rating to each such motor carrier.

(B) APPLICABILITY.—Subparagraph (A) shall apply *to motor carriers of passengers and*—

(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each motor carrier of passengers on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting motor carriers of passengers.

(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

(A) reassess the safety fitness rating of each motor carrier of passengers not less frequently than once every 3 years; and

(B) annually assess the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.

(5) MOTOR CARRIER OF PASSENGERS DEFINED.—In this subsection, the term "motor carrier of passengers" includes an offeror of motorcoach services that sells scheduled transportation of passengers for compensation at fares and on schedules and routes determined by such offeror, regardless of ownership or control of the vehicles or drivers used to provide the transportation by motorcoach.

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CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

* * * * * * *

§ 31301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given the term "alcoholic beverage" in section 158(c) of title 23.

(2) "commerce" means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

[(B) is designed to transport at least 16 passengers including the driver; or**]**

(B) is designed or used to transport—

(i) more than 8 passengers (including the driver) for compensation; or

(ii) more than 15 passengers (including the driver), whether or not the transportation is provided for compensation; or

(C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if—

(i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;

(ii) the vehicle is transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Secretary or is transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49, Code of Federal Regulations; and

(iii) the Secretary does not deny the application of this exception to the vehicle (individually or as part of a class of motor vehicles) in the interest of safety.

(5) except in section 31306, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) "employer" means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(9) "felony" means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) "foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.

(11) "hazardous material" has the same meaning given that term in section 5102 of this title.

(12) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line or custom harvesting farm machinery.

(13) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a

fatality, other than a violation to which section 31310(b)(1)(E) or 31310(c)(1)(E) applies;

(D) driving a commercial motor vehicle when the individual has not obtained a commercial driver's license;

(E) driving a commercial motor vehicle when the individual does not have in his or her possession a commercial driver's license unless the individual provides, by the date that the individual must appear in court or pay any fine with respect to the citation, to the enforcement authority that issued the citation proof that the individual held a valid commercial driver's license on the date of the citation;

(F) driving a commercial motor vehicle when the individual has not met the minimum testing standards—

(i) under section 31305(a)(3) for the specific class of vehicle the individual is operating; or

(ii) under section 31305(a)(5) for the type of cargo the vehicle is carrying; and

(G) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(14) "State" means a State of the United States and the District of Columbia.

(15) "United States" means the States of the United States and the District of Columbia.

* * * * * * *

§ 31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section and section 31306a, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation.

(B) The regulations prescribed under subparagraph (A) shall permit motor carriers—

(i) to conduct preemployment testing of commercial motor vehicle operators for the use of alcohol; and

(ii) to use hair testing as an acceptable alternative to urine testing—

(I) in conducting preemployment testing for the use of a controlled substance; and

(II) in conducting random testing for the use of a controlled substance if the operator was subject to hair testing for preemployment testing.

(C) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle;

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle; and

(C) shall provide an exemption from hair testing for commercial motor vehicle operators with established religious beliefs that prohibit the cutting or removal of hair.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines**[**, for urine testing,**]** and technical guidelines for hair testing, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested;

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section; and

(D) laboratory protocols and cut-off levels for hair testing to detect the use of a controlled substance;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regu-

lation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) TESTING AS PART OF MEDICAL EXAMINATION.—The Secretary of Transportation may provide that testing under subsection (a) of this section for operators subject to subpart E of part 391 of title 49, Code of Federal Regulations, be conducted as part of the medical examination required under that subpart.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which those operators shall be required to participate in a program. This section does not prevent a motor carrier from establishing a program under this section in cooperation with another motor carrier.

(f) SANCTIONS.—The Secretary of Transportation shall decide on appropriate sanctions for a commercial motor vehicle operator who is found, based on tests conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law or a Government regulation but who is not under the influence of alcohol or a controlled substance as provided in this chapter.

(g) EFFECT ON STATE AND LOCAL GOVERNMENT REGULATIONS.—A State or local government may not prescribe or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section may not be construed to preempt

a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(h) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—In prescribing regulations under this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(i) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by commercial motor vehicle employees.

(j) APPLICATION OF PENALTIES.—This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

* * * * * * *

§ 31313. Commercial driver's license program implementation financial assistance program

(a) FINANCIAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Transportation shall administer a financial assistance program for commercial driver's license program implementation for the purposes described in paragraphs (2) and (3).

(2) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—In carrying out the program, the Secretary may make a grant to a State agency in a fiscal year—

(A) to assist the State in complying with the requirements of section 31311; and

(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311, to improve the State's implementation of its commercial driver's license program, including expenses—

(i) for computer hardware and software;

(ii) for publications, testing, personnel, training, and quality control;

(iii) for commercial driver's license program coordinators; and

(iv) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012 (49 U.S.C. 31304 note).

(3) PRIORITY ACTIVITIES.—The Secretary may make a grant to or enter into a cooperative agreement with a State agency, local government, or any person in a fiscal year for research, development and testing, demonstration projects, public edu-

cation, and other special activities and projects relating to commercial drivers licensing and motor vehicle safety that—

(A) benefit all jurisdictions of the United States;

(B) address national safety concerns and circumstances;

(C) address emerging issues relating to commercial driver's license improvements;

(D) support innovative ideas and solutions to commercial driver's license program issues;

(E) support, in addition to funds otherwise available for such purposes, the recognition, prevention, and reporting of human trafficking; or

(F) address other commercial driver's license issues, as determined by the Secretary.

(b) PROHIBITIONS.—[A recipient] *In participating in financial assistance program under this section*

(1) a recipient may not use financial assistance funds awarded under this section to rent, lease, or buy land or buildings[.]*; and*

(2) a State may not receive more than $250,000 in grants under subsection (a)(2) in any fiscal year—

(A) in which the State prohibits both private commercial driving schools and independent commercial driver's license testing facilities from offering a commercial driver's license skills test as a third-party tester; and

(B) if, during the preceding fiscal year, the State had delays of more than 7 calendar days for the initial commercial driver's license skills test or retest at 4 or more testing locations within the State, as reported by the Administrator of the Federal Motor Carrier Safety Administration in accordance with section 5506 of the FAST Act (49 U.S.C. 31305 note).

(c) REPORT.—The Secretary shall issue an annual report on the activities carried out under this section.

(d) APPORTIONMENT.—All amounts made available to carry out this section for a fiscal year shall be apportioned to a recipient described in subsection (a)(3) according to criteria prescribed by the Secretary.

(e) FUNDING.—For fiscal years beginning after September 30, 2016, this section shall be funded under section 31104.

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§ 31315. Waivers, exemptions, and pilot programs

(a) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

(1) for a period not in excess of 3 months;

(2) limited in scope and circumstances;

(3) for nonemergency and unique events; and

(4) subject to such conditions as the Secretary may impose.

(b) EXEMPTIONS.—

(1) IN GENERAL.—Upon receipt of a request pursuant to this subsection, the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

(2) LENGTH OF EXEMPTION AND RENEWAL.—An exemption may be granted under paragraph (1) for no longer than 5 years and may be renewed, upon request, for subsequent 5-year periods if the Secretary continues to make the finding under paragraph (1).

(3) OPPORTUNITY FOR RESUBMISSION.—If the Secretary denies an application under paragraph (1) and the applicant can reasonably address the reason for the denial, the Secretary may allow the applicant to resubmit the application.

(4) AUTHORITY TO REVOKE EXEMPTION.—The Secretary shall immediately revoke an exemption if—

(A) the person fails to comply with the terms and conditions*, including data submission requirements,* of such exemption;

(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REQUESTS FOR EXEMPTION.—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

(A) The provisions from which the person requests exemption.

(B) The time period during which the requested exemption would apply.

(C) An analysis of the safety impacts the requested exemption may cause.

(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

(6) NOTICE AND COMMENT.—

(A) UPON RECEIPT OF A REQUEST.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)

a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.

(C) AFTER DENYING A REQUEST.—After denying a request for exemption, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of persons denied exemptions and the reasons for such denials.

(7) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

[(8) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.**]**

(8) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The Secretary shall establish terms and conditions for each exemption to ensure that the exemption will not likely degrade the level of safety achieved by the person or class of persons granted the exemption, and allow the Secretary to evaluate whether an equivalent level of safety is maintained while the person or class of persons is operating under such exemption, including—

(i) requiring the regular submission of accident and incident data to the Secretary;

(ii) requiring immediate notification to the Secretary in the event of a crash that results in a fatality or serious bodily injury;

(iii) for exemptions granted by the Secretary related to hours of service rules under part 395 of title

49, Code of Federal Regulations, requiring that the exempt person or class of persons submit to the Secretary evidence of participation in a recognized fatigue management plan; and

(iv) providing documentation of the authority to operate under the exemption to each exempt person, to be used to demonstrate compliance if requested by a motor carrier safety enforcement officer during a roadside inspection.

(B) IMPLEMENTATION.—The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(9) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.

(c) PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

(A) A scheduled life of each pilot program of not more than 3 years.

(B) A specific data collection and safety analysis plan that identifies a method for comparison.

(C) A reasonable number of participants necessary to yield statistically valid findings.

(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

(F) A plan to inform State partners and the public about the pilot program and to identify approved partici-

pants to safety compliance and enforcement personnel and to the public.

(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.

(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety*, based on an analysis of data collected by the Secretary and submitted to the Secretary under subsection (b)(8)*.

(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.

(g) LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise quali-

fied to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49, Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

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SUBTITLE VII—AVIATION PROGRAMS

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PART B—AIRPORT DEVELOPMENT AND NOISE

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CHAPTER 471—AIRPORT DEVELOPMENT

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SUBCHAPTER I—AIRPORT IMPROVEMENT

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[§ 47135. Innovative financing techniques

[(a) IN GENERAL.—The Secretary of Transportation may approve, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, applications for not more than 20 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports in the most recent calendar year for which data is available.

[(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

[(c) LIMITATIONS.—

[(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

[(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

[(A) payment of interest;

[(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

[(C) flexible non-Federal matching requirements; and

[(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section.]

§ 47135. Innovative financing techniques

(a) IN GENERAL.—The Secretary of Transportation may approve an application by an airport sponsor to use grants received under this subchapter for innovative financing techniques related to an airport development project. Such projects shall be located at airports that are not large hub airports. The Secretary may not approve more than 30 applications under this section in a fiscal year.

(b) PURPOSES.—The purpose of grants made under this section shall be—

(1) to provide information on using innovative financing techniques for airport development projects;

(2) to lower the total cost of an airport development project; or

(3) to safely expedite the delivery or completion of an airport development project.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

(C) flexible non-Federal matching requirements;

(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section; and

(E) such other techniques that the Secretary approves as consistent with the purposes of this section.

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SUBTITLE IX—MULTIMODAL FREIGHT TRANSPORTATION

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CHAPTER 701—MULTIMODAL FREIGHT POLICY

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§ 70101. National multimodal freight policy

(a) IN GENERAL.—It is the policy of the United States to maintain and improve the condition and performance of the National Multimodal Freight Network established under section 70103 to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(b) GOALS.—The goals of the national multimodal freight policy are—

(1) to identify infrastructure improvements, policies, and operational innovations that—

(A) strengthen the contribution of the National Multimodal Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and eliminate bottlenecks on the National Multimodal Freight Network; and

(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

(2) to improve the safety, security, efficiency, and resiliency of multimodal freight transportation *in rural and urban areas*;

(3) to achieve and maintain a state of good repair on the National Multimodal Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Multimodal Freight Network;

(5) to improve the economic efficiency and productivity of the National Multimodal Freight Network;

(6) to improve the reliability of freight transportation;

(7) to improve the short- and long-distance movement of goods that—

(A) travel across rural areas between population centers;

(B) travel between rural areas and population centers**[**; and**]***;*

(C) travel within population centers; and

[(C)**]** *(D)* travel from the Nation's ports, airports, and gateways to the National Multimodal Freight Network;

(8) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address multimodal freight connectivity;

(9) to reduce the adverse environmental impacts of freight movement on the National Multimodal Freight Network**[**; and**]** *including—*

(A) greenhouse gas emissions;

(B) local air pollution;

(C) minimizing, capturing, or treating stormwater runoff or other adverse impacts to water quality; and

(D) wildlife habitat loss;

(10) to decrease any adverse impact of freight transportation on communities located near freight facilities or freight corridors; and

⟦(10)⟧ *(11)* to pursue the goals described in this subsection in a manner that is not burdensome to State and local governments.

(c) IMPLEMENTATION.—The Under Secretary of Transportation for Policy, who shall be responsible for the oversight and implementation of the national multimodal freight policy, shall—

(1) carry out sections 70102 and 70103;

(2) assist with the coordination of modal freight planning; and

(3) identify interagency data sharing opportunities to promote freight planning and coordination.

§ 70102. National freight strategic plan

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Under Secretary of Transportation for Policy shall—

(1) develop a national freight strategic plan in accordance with this section; and

(2) publish the plan on the public Internet Web site of the Department of Transportation.

(b) CONTENTS.—The national freight strategic plan shall include—

(1) an assessment of the condition and performance of the National Multimodal Freight Network established under section 70103;

(2) forecasts of freight volumes for the succeeding 5-, 10-, and 20-year periods;

(3) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators;

(4) an identification of bottlenecks on the National Multimodal Freight Network that create significant freight congestion, based on a quantitative methodology developed by the Under Secretary, which shall include, at a minimum—

(A) information from the Freight Analysis Framework of the Federal Highway Administration; and

(B) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

(5) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance, and a description of opportunities for overcoming the barriers;

(6) a process for addressing multistate projects and encouraging jurisdictions to collaborate;

(7) strategies to improve freight intermodal connectivity;

(8) an identification of corridors providing access to energy exploration, development, installation, or production areas;

(9) an identification of corridors providing access to major areas for manufacturing, agriculture, or natural resources;

(10) an identification of best practices for improving the performance of the National Multimodal Freight Network, including critical commerce corridors and rural and urban access to critical freight corridors; and

(11) an identification of best practices to mitigate the impacts of freight movement on communities.

(c) UPDATES.—Not later than 5 years after the date of completion of the national freight strategic plan under subsection (a), and every 5 years thereafter, the Under Secretary [shall update the plan and publish the updated plan on the public Internet Web site of the Department of Transportation.] *shall—*

(1) update the plan and publish the updated plan on the public website of the Department of Transportation; and

(2) include in the update described in paragraph (1)—

(A) each item described in subsection (b); and

(B) best practices to reduce the adverse environmental impacts of freight-related—

(i) greenhouse gas emissions;

(ii) local air pollution;

(iii) stormwater runoff or other adverse impacts to water quality; and

(iv) wildlife habitat loss.

(d) CONSULTATION.—The Under Secretary shall develop and update the national freight strategic plan—

(1) after providing notice and an opportunity for public comment; and

(2) in consultation with State departments of transportation, metropolitan planning organizations, and other appropriate public and private transportation stakeholders.

§ 70103. National Multimodal Freight Network

(a) IN GENERAL.—The Under Secretary of Transportation for Policy shall establish a National Multimodal Freight Network in accordance with this section—

(1) to assist States in strategically directing resources toward improved system performance for the efficient movement of freight on the Network;

(2) to inform freight transportation planning;

(3) to assist in the prioritization of Federal investment; and

(4) to assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23.

(b) INTERIM NETWORK.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Under Secretary shall establish an interim National Multimodal Freight Network in accordance with this subsection.

(2) NETWORK COMPONENTS.—The interim National Multimodal Freight Network shall include—

(A) the National Highway Freight Network, as established under section 167 of title 23;

(B) the freight rail systems of Class I railroads, as designated by the Surface Transportation Board;

(C) the public ports [of the United States that have] *of the United States that—*

(i) have a total annual value of cargo of at least $1,000,000,000, as identified by United States Customs and Border Protection and reported by the Bureau of the Census; or

(ii) have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers, using the data from the latest year for which such data is available;

(D) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804);

(E) the Great Lakes, the St. Lawrence Seaway, and coastal and ocean routes along which domestic freight is transported;

(F) the 50 airports located in the United States with the highest annual landed weight, as identified by the Federal Aviation Administration; and

(G) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Under Secretary as critical to interstate commerce.

(c) FINAL NETWORK.—

(1) IN GENERAL.—[Not later than 1 year after the date of enactment of this section,]

(A) REPORT TO CONGRESS.—Not later than 30 days after the date of enactment of the INVEST in America Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing a plan to designate a final National Multimodal Freight Network, including a detailed summary of the resources within the Office of the Secretary that will be dedicated to carrying out such plan.

(B) DESIGNATION OF NATIONAL MULTIMODAL FREIGHT NETWORK.—Not later than 60 days after the submission of the report described in subparagraph (A), the Under Secretary, after soliciting input from stakeholders, including multimodal freight system users, transportation providers, metropolitan planning organizations, local governments, ports, airports, railroads, and States, through a public process to identify critical freight facilities and corridors, including critical commerce corridors, that are vital to achieve the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23, and after providing notice and an opportunity for

comment on a draft system, shall designate a National Multimodal Freight Network with the goal of—

(A) improving network and intermodal connectivity; and

(B) using measurable data as part of the assessment of the significance of freight movement, including the consideration of points of origin, destinations, and linking components of domestic and international supply chains.

(2) FACTORS.—In designating or redesignating the National Multimodal Freight Network, the Under Secretary shall consider—

(A) origins and destinations of freight movement within, to, and from the United States;

(B) volume, value, tonnage, and the strategic importance of freight;

(C) access to border crossings, airports, seaports, and pipelines;

(D) economic factors, including balance of trade;

(E) access to major areas for manufacturing, agriculture, or natural resources;

(F) access to energy exploration, development, installation, and production areas;

(G) intermodal links and intersections that promote connectivity;

(H) freight choke points and other impediments contributing to significant measurable congestion, delay in freight movement, or inefficient modal connections;

(I) impacts on all freight transportation modes and modes that share significant freight infrastructure;

(J) facilities and transportation corridors identified by a multi-State coalition, a State, a State freight advisory committee, or a metropolitan planning organization, using national or local data, as having critical freight importance to the region;

(K) major distribution centers, inland intermodal facilities, and first- and last-mile facilities; and

(L) the significance of goods movement, including consideration of global and domestic supply chains.

(3) CONSIDERATIONS.—In designating or redesignating the National Multimodal Freight Network, the Under Secretary shall—

(A) use, to the extent practicable, measurable data to assess the significance of goods movement, including the consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains;

(B) consider—

(i) the factors described in paragraph (2); and

(ii) any changes in the economy that affect freight transportation network demand; and

(C) provide the States *and metropolitan planning organizations* with an opportunity to submit proposed des-

ignations in accordance with [paragraph (4)] *paragraphs (4) and (5)*.

(4) STATE *AND METROPOLITAN PLANNING ORGANIZATION* INPUT.—

(A) IN GENERAL.—Each State that proposes additional designations for the National Multimodal Freight Network shall—

(i) consider nominations for additional designations from metropolitan planning organizations and State freight advisory committees, as applicable, within the State;

(ii) consider nominations for additional designations from owners and operators of port, rail, pipeline, and airport facilities; and

(iii) ensure that additional designations are consistent with the State transportation improvement program or freight plan.

(B) CRITICAL RURAL FREIGHT FACILITIES AND CORRIDORS.—As part of the designations under subparagraph (A), a State may designate a freight facility or corridor within the borders of the State as a critical rural freight facility or corridor if the facility or corridor—

(i) is a rural principal arterial;

(ii) provides access or service to energy exploration, development, installation, or production areas;

(iii) provides access or service to—

(I) a grain elevator;

(II) an agricultural facility;

(III) a mining facility;

(IV) a forestry facility; or

(V) an intermodal facility;

(iv) connects to an international port of entry;

(v) provides access to a significant air, rail, water, or other freight facility in the State; or

(vi) has been determined by the State to be vital to improving the efficient movement of freight of importance to the economy of the State.

[(C) LIMITATION.—

[(i) IN GENERAL.—A State may propose additional designations to the National Multimodal Freight Network in the State in an amount that is not more than 20 percent of the total mileage designated by the Under Secretary in the State.

[(ii) DETERMINATION BY UNDER SECRETARY.—The Under Secretary shall determine how to apply the limitation under clause (i) to the components of the National Multimodal Freight Network.]

(C) CRITICAL URBAN FREIGHT FACILITIES AND CORRIDORS.—

(i) AREA WITH A POPULATION OF OVER 500,000.—In an urbanized area with a population of 500,000 or more individuals, the representative metropolitan planning organization, in consultation with the State, may

designate a freight facility or corridor within the borders of the State as a critical urban freight facility or corridor.

(ii) AREA WITH A POPULATION OF LESS THAN 500,000.—In an urbanized area with a population of less than 500,000 individuals, the State, in consultation with the representative metropolitan planning organization, may designate a freight facility or corridor within the borders of the State as a critical urban freight corridor.

(iii) DESIGNATION.—A designation may be made under subparagraph (i) or (ii) if the facility or corridor is in an urbanized area, regardless of population, and such facility or corridor—

(I) provides access to the primary highway freight system, the Interstate system, or an intermodal freight facility;

(II) is located within a corridor of a route on the primary highway freight system and provides an alternative option important to goods movement;

(III) serves a major freight generator, logistics center, or manufacturing and warehouse industrial land;

(IV) connects to an international port of entry;

(V) provides access to a significant air, rail, water, or other freight facility in the State; or

(VI) is important to the movement of freight within the region, as determined by the metropolitan planning organization or the State.

(D) LIMITATION.—A State may propose additional designations to the National Multimodal Freight Network in the State in an amount that is—

(i) for a highway project, not more than 20 percent of the total mileage designated by the Under Secretary in the State; and

(ii) for a non-highway project, using a limitation determined by the Under Secretary.

[(D)**]** *(E)* SUBMISSION AND CERTIFICATION.—A State shall submit to the Under Secretary—

(i) a list of any additional designations proposed to be added under this paragraph; and

(ii) a certification that—

(I) the State has satisfied the requirements of subparagraph (A); and

(II) the designations referred to in clause (i) address the factors for designation described in this subsection.

(5) REQUIRED NETWORK COMPONENTS.—In designating or redesignating the National Multimodal Freight Network, the Under Secretary shall ensure that the National Multimodal Freight Network includes the components described in subsection (b)(2).

(d) REDESIGNATION OF NATIONAL MULTIMODAL FREIGHT NETWORK.—Not later than 5 years after the initial designation under subsection (c), and every 5 years thereafter, the Under Secretary, using the designation factors described in subsection (c), shall redesignate the National Multimodal Freight Network.

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CHAPTER 702—MULTIMODAL FREIGHT TRANSPORTATION PLANNING AND INFORMATION

§ 70201. State freight advisory committees

(a) IN GENERAL.—The Secretary of Transportation shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of ports, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, the transportation department of the State, [and local governments] *local governments, metropolitan planning organizations, and the departments with responsibility for environmental protection and air quality of the State*.

(b) ROLE OF COMMITTEE.—A freight advisory committee of a State described in subsection (a) shall—

(1) advise the State on freight-related priorities, issues, projects, and funding needs;

(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

(3) communicate and coordinate regional priorities with other organizations;

(4) promote the sharing of information between the private and public sectors on freight issues; and

(5) participate in the development of the freight plan of the State described in section 70202.

§ 70202. State freight plans

(a) IN GENERAL.—Each State that receives funding under section 167 of title 23 shall develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight.

(b) PLAN CONTENTS.—A State freight plan described in subsection (a) shall include, at a minimum—

(1) an identification of significant freight system trends, needs, and issues with respect to the State;

(2) a description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;

(3) when applicable, a listing of—

(A) multimodal critical rural *and urban* freight facilities and corridors designated within the State under section 70103 of this title; and

(B) critical rural and urban freight corridors designated within the State under section 167 of title 23;

(4) a description of how the plan will improve the ability of the State to meet the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23;

(5) a description of how innovative technologies and operational strategies, including freight intelligent transportation systems, that improve the safety and efficiency of freight movement, were considered;

(6) in the case of roadways on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of the roadways, a description of improvements that may be required to reduce or impede the deterioration;

(7) an inventory of facilities with freight mobility issues, such as bottlenecks, within the State, and for those facilities that are State owned or operated, a description of the strategies the State is employing to address the freight mobility issues;

(8) consideration of any significant congestion or delay caused by freight movements and any strategies to mitigate that congestion or delay;

(9) a freight investment plan that, subject to subsection (c)(2), includes a list of priority projects and describes how funds made available to carry out section 167 of title 23 would be invested and matched**[**; and**]***;*

(10) strategies and goals to decrease freight-related—

(A) greenhouse gas emissions;

(B) local air pollution;

(C) stormwater runoff or other adverse impacts to water quality; and

(D) wildlife habitat loss;

(11) strategies and goals to decrease any adverse impact of freight transportation on communities located near freight facilities or freight corridors; and

[(10)**]** *(12)* consultation with the State freight advisory committee, if applicable.

(c) RELATIONSHIP TO LONG-RANGE PLAN.—

(1) INCORPORATION.—A State freight plan described in subsection (a) may be developed separately from or incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23.

(2) FISCAL CONSTRAINT.—The freight investment plan component of a freight plan shall include a project, or an identified phase of a project, only if funding for completion of the project can reasonably be anticipated to be available for the project

within the time period identified in the freight investment plan.

(d) PLANNING PERIOD.—A State freight plan described in subsection (a) shall address a 5-year forecast period.

(e) UPDATES.—

(1) IN GENERAL.—A State shall update a State freight plan described in subsection (a) not less frequently than once every 5 years.

(2) FREIGHT INVESTMENT PLAN.—A State may update a freight investment plan described in subsection (b)(9) more frequently than is required under paragraph (1).

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§ 70205. National cooperative multimodal freight transportation research program

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish and support a national cooperative multimodal freight transportation research program.

(b) AGREEMENT.—Not later than 6 months after the date of enactment of this section, the Secretary shall seek to enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative multimodal freight transportation research program.

(c) ADVISORY COMMITTEE.—In carrying out the agreement described in subsection (b), the National Academy of Sciences shall select a multimodal freight transportation research advisory committee consisting of multimodal freight stakeholders, including, at a minimum—

(1) a representative of the Department of Transportation;

(2) representatives of any other Federal agencies relevant in supporting the nation's multimodal freight transportation research needs;

(3) a representative of a State department of transportation;

(4) a representative of a local government (other than a metropolitan planning organization);

(5) a representative of a metropolitan planning organization;

(6) a representative of the trucking industry;

(7) a representative of the railroad industry;

(8) a representative of the port industry;

(9) a representative of logistics industry;

(10) a representative of shipping industry;

(11) a representative of a safety advocacy group with expertise in freight transportation;

(12) an academic expert on multimodal freight transportation;

(13) an academic expert on the contributions of freight movement to greenhouse gas emissions; and

(14) representatives of labor organizations representing workers in freight transportation.

(d) ELEMENTS.—The national cooperative multimodal freight transportation research program established under this section shall include the following elements:

(1) NATIONAL RESEARCH AGENDA.—The advisory committee under subsection (c), in consultation with interested parties, shall recommend a national research agenda for the program established in this section.

(2) INVOLVEMENT.—Interested parties may—

(A) submit research proposals to the advisory committee;

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

(C) receive research results.

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

(4) EVALUATION OF RESEARCH.—

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

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

(5) DISSEMINATION OF RESEARCH FINDINGS.—

(A) IN GENERAL.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, a public website for the National Academy of Sciences, publications for the general public, and other appropriate means.

(B) REPORT.—Not more than 18 months after the date of enactment of this section, and annually thereafter, the Secretary shall make available on a public website a report that describes the ongoing research and findings of the program.

(e) CONTENTS.—The national research agenda under subsection (d)(1) shall include—

(1) techniques and tools for estimating and identifying both quantitative and qualitative public benefits derived from multimodal freight transportation projects, including—

(A) greenhouse gas emissions reduction;

(B) congestion reduction; and

(C) safety benefits;

(2) the impact of freight delivery vehicles, including trucks, railcars, and non-motorized vehicles, on congestion in urban and rural areas;

(3) the impact of both centralized and disparate origins and destinations on freight movement;

(4) the impacts of increasing freight volumes on transportation planning, including—

(A) first-mile and last-mile challenges to multimodal freight movement;

(B) multimodal freight travel in both urban and rural areas; and

(C) commercial motor vehicle parking and rest areas;

(5) the effects of Internet commerce and accelerated delivery speeds on freight movement and increased commercial motor vehicle volume, including impacts on—

(A) safety on public roads;

(B) congestion in both urban and rural areas;

(C) first-mile and last-mile challenges and opportunities;

(D) the environmental impact of freight transportation, including on air quality and on greenhouse gas emissions; and

(E) vehicle miles-traveled by freight-delivering vehicles;

(6) the impacts of technological advancements in freight movement, including impacts on—

(A) congestion in both urban and rural areas;

(B) first-mile and last-mile challenges and opportunities; and

(C) vehicle miles-traveled;

(7) methods and best practices for aligning multimodal infrastructure improvements with multimodal freight transportation demand, including improvements to the National Multimodal Freight Network under section 70103; and

(8) other research areas to identify and address current, emerging, and future needs related to multimodal freight transportation.

(f) FUNDING.—

(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be 100 percent.

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

(g) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" has the meaning given such term in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)).

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SUBTITLE X—MISCELLANEOUS

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CHAPTER 805—MISCELLANEOUS

* * * * * * *

§ 80502. Transportation of animals

(a) CONFINEMENT.—(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the

United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement under this subsection.

(b) UNLOADING, FEEDING, WATERING, AND REST.—Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) NONAPPLICATION.—[This section does not] *Subsections (a) and (b) shall not* apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) TRANSPORTATION OF HORSES.—

(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

(2) MOTOR VEHICLE DEFINED.—In this subsection, the term "motor vehicle"—

(A) means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and

(B) does not include a vehicle operated exclusively on a rail or rails.

[(d)] *(e)* CIVIL PENALTY.—[A rail carrier]

(1) IN GENERAL.—A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates **[**this section**]** *subsection (a) or (b)* is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. **[**On learning**]**

(2) TRANSPORTATION OF HORSES IN MULTILEVEL TRAILER.—

(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100, but not more than $500, for each violation. A separate violation of subsection (d) occurs for each horse that is transported, or caused to be transported, in violation of subsection (d).

(B) RELATIONSHIP TO OTHER LAWS.—The penalty imposed under subparagraph (A) shall be in addition to any penalty or remedy available under any other law.

(3) CIVIL ACTION.—On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

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FAST ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fixing America's Surface Transportation Act" or the "FAST Act".

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

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DIVISION A—SURFACE TRANSPORTATION

* * * * * * *

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

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[SEC. 1123. NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM.

[(a) PURPOSE.—The Secretary shall establish a nationally significant Federal lands and tribal projects program (referred to in this section as the "program") to provide funding to construct, reconstruct, or rehabilitate nationally significant Federal lands and tribal transportation projects.

[(b) ELIGIBLE APPLICANTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), entities eligible to receive funds under sections 201, 202, 203, and 204 of title 23, United States Code, may apply for funding under the program.

[(2) SPECIAL RULE.—A State, county, or unit of local government may only apply for funding under the program if sponsored by an eligible Federal land management agency or Indian tribe.

[(c) ELIGIBLE PROJECTS.—An eligible project under the program shall be a single continuous project—

[(1) on a Federal lands transportation facility, a Federal lands access transportation facility, or a tribal transportation facility (as those terms are defined in section 101 of title 23, United States Code), except that such facility is not required to be included in an inventory described in section 202 or 203 of such title;

[(2) for which completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been demonstrated through—

[(A) a record of decision with respect to the project;

[(B) a finding that the project has no significant impact; or

[(C) a determination that the project is categorically excluded; and

[(3) having an estimated cost, based on the results of preliminary engineering, equal to or exceeding $25,000,000, with priority consideration given to projects with an estimated cost equal to or exceeding $50,000,000.

[(d) ELIGIBLE ACTIVITIES.—

[(1) IN GENERAL.—Subject to paragraph (2), an eligible applicant receiving funds under the program may only use the funds for construction, reconstruction, and rehabilitation activities.

[(2) INELIGIBLE ACTIVITIES.—An eligible applicant may not use funds received under the program for activities relating to project design.

[(e) APPLICATIONS.—Eligible applicants shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

[(f) SELECTION CRITERIA.—In selecting a project to receive funds under the program, the Secretary shall consider the extent to which the project—

[(1) furthers the goals of the Department, including state of good repair, economic competitiveness, quality of life, and safety;

[(2) improves the condition of critical transportation facilities, including multimodal facilities;

[(3) needs construction, reconstruction, or rehabilitation;

[(4) has costs matched by funds that are not provided under this section, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches;

[(5) is included in or eligible for inclusion in the National Register of Historic Places;

[(6) uses new technologies and innovations that enhance the efficiency of the project;

[(7) is supported by funds, other than the funds received under the program, to construct, maintain, and operate the facility;

[(8) spans 2 or more States; and

[(9) serves land owned by multiple Federal agencies or Indian tribes.

[(g) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share of the cost of a project shall be up to 90 percent.

[(2) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, any Federal funds other than those made available under title 23 or title 49, United States Code, may be used to pay the non-Federal share of the cost of a project carried out under this section.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2016 through 2020. Such sums shall remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.]

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Subtitle D—Miscellaneous

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SEC. 1404. DESIGN STANDARDS.

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

(1) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking "may take into account" and inserting "shall consider";

(ii) in subparagraph (B) by striking "and" at the end;

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

"(C) cost savings by utilizing flexibility that exists in current design guidance and regulations; and"; and

(B) in paragraph (2)—

(i) in subparagraph (C) by striking "and" at the end;

(ii) by redesignating subparagraph (D) as subparagraph (F); and

(iii) by inserting after subparagraph (C) the following:

"(D) the publication entitled 'Highway Safety Manual' of the American Association of State Highway and Transportation Officials;

"(E) the publication entitled 'Urban Street Design Guide' of the National Association of City Transportation Officials; and"; and

(2) in subsection (f) by inserting "pedestrian walkways," after "bikeways,".

[(b) DESIGN STANDARD FLEXIBILITY.—Notwithstanding section 109(o) of title 23, United States Code, a State may allow a local jurisdiction to use a roadway design publication that is different from the roadway design publication used by the State in which the local jurisdiction is located for the design of a project on a roadway under the ownership of the local jurisdiction (other than a highway on the Interstate System) if—

[(1) the local jurisdiction is a direct recipient of Federal funds for the project;

[(2) the roadway design publication—

[(A) is recognized by the Federal Highway Administration; and

[(B) is adopted by the local jurisdiction; and

[(3) the design complies with all other applicable Federal laws.]

* * * * * * *

[SEC. 1444. EVERY DAY COUNTS INITIATIVE.

[(a) IN GENERAL.—It is in the national interest for the Department, State departments of transportation, and all other recipients of Federal transportation funds—

[(1) to identify, accelerate, and deploy innovation aimed at shortening project delivery, enhancing the safety of the roadways of the United States, and protecting the environment;

[(2) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner;

[(3) to promote the rapid deployment of proven solutions that provide greater accountability for public investments and encourage greater private sector involvement; and

[(4) to create a culture of innovation within the highway community.

[(b) EVERY DAY COUNTS INITIATIVE.—To advance the policy described in subsection (a), the Administrator of the Federal Highway Administration shall continue the Every Day Counts initiative to work with States, local transportation agencies, and industry stakeholders to identify and deploy proven innovative practices and products that—

[(1) accelerate innovation deployment;

[(2) shorten the project delivery process;

[(3) improve environmental sustainability;

[(4) enhance roadway safety; and

[(5) reduce congestion.

[(c) INNOVATION DEPLOYMENT.—

[(1) IN GENERAL.—At least every 2 years, the Administrator shall work collaboratively with stakeholders to identify a new collection of innovations, best practices, and data to be deployed to highway stakeholders through case studies, webinars, and demonstration projects.

[(2) REQUIREMENTS.—In identifying a collection described in paragraph (1), the Secretary shall take into account market readiness, impacts, benefits, and ease of adoption of the innovation or practice.

[(d) PUBLICATION.—Each collection identified under subsection (c) shall be published by the Administrator on a publicly available Web site.]

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TITLE III—PUBLIC TRANSPORTATION

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SEC. 3019. INNOVATIVE PROCUREMENT.

(a) DEFINITION.—In this section, the term "grantee" means a recipient or subrecipient of assistance under chapter 53 of title 49, United States Code.

(b) COOPERATIVE PROCUREMENT.—

(1) DEFINITIONS; GENERAL RULES.—

(A) DEFINITIONS.—In this subsection—

(i) the term "cooperative procurement contract" means a contract—

(I) entered into between a State government or eligible nonprofit entity and 1 or more vendors; and

(II) under which the vendors agree to provide an option to purchase rolling stock and related equipment to multiple participants;

(ii) the term "eligible nonprofit entity" means—

(I) a nonprofit cooperative purchasing organization that is not a grantee; or

(II) a consortium of entities described in subclause (I);

(iii) the terms "lead nonprofit entity" and "lead procurement agency" mean an eligible nonprofit entity or a State government, respectively, that acts in an administrative capacity on behalf of each participant in a cooperative procurement contract;

(iv) the term "participant" means a grantee that participates in a cooperative procurement contract; and

(v) the term "participate" means to purchase rolling stock and related equipment under a cooperative procurement contract using assistance provided under chapter 53 of title 49, United States Code.

(B) GENERAL RULES.—

(i) PROCUREMENT NOT LIMITED TO INTRASTATE PARTICIPANTS.—A grantee may participate in a cooperative procurement contract without regard to whether the grantee is located in the same State as the parties to the contract.

(ii) VOLUNTARY PARTICIPATION.—Participation by grantees in a cooperative procurement contract shall be voluntary.

(iii) CONTRACT TERMS.—The lead procurement agency or lead nonprofit entity for a cooperative procurement contract shall develop the terms of the contract.

(iv) DURATION.—A cooperative procurement contract—

(I) subject to subclauses (II) and (III), may be for an initial term of not more than 2 years;

(II) may include not more than 3 optional extensions for terms of not more than 1 year each; and

(III) may be in effect for a total period of not more than 5 years, including each extension authorized under subclause (II).

(v) ADMINISTRATIVE EXPENSES.—A lead procurement agency or lead nonprofit entity, as applicable, that enters into a cooperative procurement contract—

(I) may charge the participants in the contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than 1 percent of the total value of the contract; and

(II) with respect to the cost described in subclause (I), may incorporate the cost into the price of the contract or directly charge the participants for the cost, but not both.

(2) STATE COOPERATIVE PROCUREMENT SCHEDULES.—

(A) AUTHORITY.—A State government may enter into a cooperative procurement contract with 1 or more vendors if—

(i) the vendors agree to provide an option to purchase rolling stock and related equipment to the State government and any other participant; and

(ii) the State government acts throughout the term of the contract as the lead procurement agency.

(B) APPLICABILITY OF POLICIES AND PROCEDURES.—In procuring rolling stock and related equipment under a cooperative procurement contract under this subsection, a State government shall comply with the policies and procedures that apply to procurement by the State government when using non-Federal funds, to the extent that the policies and procedures are in conformance with applicable Federal law.

(3) PILOT PROGRAM FOR NONPROFIT COOPERATIVE PROCUREMENTS.—

(A) ESTABLISHMENT.—The Secretary shall establish and carry out a pilot program to demonstrate the effectiveness of cooperative procurement contracts administered by eligible nonprofit entities.

(B) DESIGNATION.—In carrying out the program under this paragraph, the Secretary shall designate not less than 3 eligible nonprofit entities to enter into a cooperative procurement contract under which the eligible nonprofit entity acts throughout the term of the contract as the lead nonprofit entity.

(C) NOTICE OF INTENT TO PARTICIPATE.—At a time determined appropriate by the lead nonprofit entity, each participant in a cooperative procurement contract under this paragraph shall submit to the lead nonprofit entity a nonbinding notice of intent to participate.

(4) JOINT PROCUREMENT CLEARINGHOUSE.—

(A) IN GENERAL.—The Secretary shall establish a clearinghouse for the purpose of allowing grantees to aggregate planned rolling stock purchases and identify joint procurement participants.

(B) NONPROFIT CONSULTATION.—In establishing the clearinghouse under subparagraph (A), the Secretary may consult with nonprofit entities with expertise in public transportation or procurement, and other stakeholders as the Secretary determines appropriate.

(C) INFORMATION ON PROCUREMENTS.—The clearinghouse may include information on bus size, engine type, floor type, and any other attributes necessary to identify joint procurement participants.

(D) LIMITATIONS.—

(i) ACCESS.—The clearinghouse shall only be accessible to the Federal Transit Administration, a nonprofit entity coordinating for such clearinghouse with the Secretary, and grantees.

(ii) PARTICIPATION.—No grantee shall be required to submit procurement information to the database.

(c) LEASING ARRANGEMENTS.—

(1) CAPITAL LEASE DEFINED.—

(A) IN GENERAL.—In this subsection, the term "capital lease" means any agreement under which a grantee acquires the right to use rolling stock or related equipment for a specified period of time, in exchange for a periodic payment.

(B) MAINTENANCE.—A capital lease may require that the lessor provide maintenance of the rolling stock or related equipment covered by the lease.

(2) PROGRAM TO SUPPORT INNOVATIVE LEASING ARRANGEMENTS.—

(A) AUTHORITY.—A grantee may use assistance provided under chapter 53 of title 49, United States Code, to enter into a capital lease if—

(i) the rolling stock or related equipment covered under the lease is eligible for capital assistance under such chapter; and

(ii) there is or will be no Federal interest in the rolling stock or related equipment covered under the lease as of the date on which the lease takes effect.

(B) GRANTEE REQUIREMENTS.—A grantee that enters into a capital lease shall—

(i) maintain an inventory of the rolling stock or related equipment acquired under the lease; and

(ii) maintain on the accounting records of the grantee the liability of the grantee under the lease.

(C) ELIGIBLE LEASE COSTS.—The costs for which a grantee may use assistance under chapter 53 of title 49, United States Code, with respect to a capital lease, include—

(i) the cost of the rolling stock or related equipment;

(ii) associated financing costs, including interest, legal fees, and financial advisor fees;

(iii) ancillary costs such as delivery and installation charges; and

(iv) maintenance costs.

(D) TERMS.—A grantee shall negotiate the terms of any lease agreement that the grantee enters into.

(E) APPLICABILITY OF PROCUREMENT REQUIREMENTS.—

(i) LEASE REQUIREMENTS.—Part 639 of title 49, Code of Federal Regulations, or any successor regulation, and implementing guidance applicable to leasing shall not apply to a capital lease.

(ii) BUY AMERICA.—The requirements under section 5323(j) of title 49, United States Code, shall apply to a capital lease.

(3) CAPITAL LEASING OF CERTAIN ZERO EMISSION VEHICLE COMPONENTS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "removable power source"—

(I) means a power source that is separately installed in, and removable from, a zero emission vehicle; and

(II) may include a battery, a fuel cell, an ultra-capacitor, or other advanced power source used in a zero emission vehicle; and

(ii) the term "zero emission vehicle" has the meaning given the term in section 5339(c) of title 49, United States Code.

(B) LEASED POWER SOURCES.—Notwithstanding any other provision of law, for purposes of this subsection, the cost of a removable power source that is necessary for the operation of a zero emission vehicle shall not be treated as part of the cost of the vehicle if the removable power source is acquired using a capital lease.

(C) ELIGIBLE CAPITAL LEASE.—A grantee may acquire a removable power source by itself through a capital lease.

(D) PROCUREMENT REGULATIONS.—For purposes of this section, a removable power source shall be subject to section 200.88 of title 2, Code of Federal Regulations.

(4) REPORTING REQUIREMENT.—Not later than 3 years after the date on which a grantee enters into a capital lease under this subsection, the grantee shall submit to the Secretary a report that contains—

(A) an evaluation of the overall costs and benefits of leasing rolling stock; and

(B) a comparison of the expected short-term and long-term maintenance costs of leasing versus buying rolling stock.

(5) REPORT.—The Secretary shall make publicly available an annual report on this subsection for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of the activities carried out under this subsection, and evaluation of the program including the evaluation of the data reported in paragraph (4).

(d) BUY AMERICA.—The requirements of section 5323(j) of title 49, United States Code, shall apply to all procurements under this section.

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TITLE IV—HIGHWAY TRAFFIC SAFETY

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SEC. 4007. STOP MOTORCYCLE CHECKPOINT FUNDING.

Notwithstanding section 153 of title 23, United States Code, the Secretary may not provide a grant or any funds to a State, county, town, township, Indian tribe, municipality, or other local government that may be used for any program—

(1) to check helmet usage; **[**or**]**

(2) to create checkpoints that specifically target motorcycle operators or motorcycle passengers[.]*; or*

(3) otherwise profile and stop motorcycle operators or motorcycle passengers using as a factor the clothing or mode of transportation of such operators or passengers.

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SEC. 4010. NATIONAL PRIORITY SAFETY PROGRAM GRANT ELIGIBILITY.

Not later than 60 days after the date on which the Secretary awards grants under section 405 of title 23, United States Code, the Secretary shall make available on a publicly available Internet Web site of the Department of Transportation—

(1) an identification of—

(A) the States that were awarded grants under such section;

(B) the States that applied and were not awarded grants under such section; and

(C) the States that did not apply for a grant under such section; and

(2) a list of [deficiencies] *all deficiencies* that made a State ineligible for a grant under such section for each State under paragraph (1)(B).

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TITLE V—MOTOR CARRIER SAFETY

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Subtitle B—Federal Motor Carrier Safety Administration Reform

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PART II—COMPLIANCE, SAFETY, ACCOUNTABILITY REFORM

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[SEC. 5223. DATA CERTIFICATION.

[(a) IN GENERAL.—On and after the date that is 1 day after the date of enactment of this Act, no information regarding analysis of violations, crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault, alerts, or the relative percentile for each BASIC developed under the CSA program may be made available to the general public until the Inspector General of the Department certifies that—

[(1) the report required under section 5221(c) has been submitted in accordance with that section;

[(2) any deficiencies identified in the report required under section 5221(c) have been addressed;

[(3) if applicable, the corrective action plan under section 5221(d) has been implemented;

[(4) the Administrator of the Federal Motor Carrier Safety Administration has fully implemented or satisfactorily addressed the issues raised in the report titled "Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers" of the Government Accountability Office and dated February 2014 (GAO-14-114); and

[(5) the Secretary has initiated modification of the CSA program in accordance with section 5222.

[(b) LIMITATION ON THE USE OF CSA ANALYSIS.—Information regarding alerts and the relative percentile for each BASIC developed under the CSA program may not be used for safety fitness determinations until the Inspector General of the Department makes the certification under subsection (a).

[(c) CONTINUED PUBLIC AVAILABILITY OF DATA.—Notwithstanding any other provision of this section, inspection and violation information submitted to the Federal Motor Carrier Safety Administration by commercial motor vehicle inspectors and qualified law enforcement officials, out-of-service rates, and absolute measures shall remain available to the public.

[(d) EXCEPTIONS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this section—

[(A) the Federal Motor Carrier Safety Administration and State and local commercial motor vehicle enforcement agencies may use the information referred to in subsection (a) for purposes of investigation and enforcement prioritization;

[(B) a motor carrier and a commercial motor vehicle driver may access information referred to in subsection (a) that relates directly to the motor carrier or driver, respectively; and

[(C) a data analysis of motorcoach operators may be provided online with a notation indicating that the ratings or alerts listed are not intended to imply any Federal safety rating of the carrier.

[(2) NOTATION.—The notation described in paragraph (1)(C) shall include the following: "Readers should not draw conclusions about a carrier's overall safety condition simply based on the data displayed in this system. Unless a motor carrier has received an UNSATISFACTORY safety rating under part 385 of title 49, Code of Federal Regulations, or has otherwise been ordered to discontinue operations by the Federal Motor Carrier Safety Administration, it is authorized to operate on the Nation's roadways.".

[(3) RULE OF CONSTRUCTION.—Nothing in this section may be construed to restrict the official use by State enforcement agencies of the data collected by State enforcement personnel.]

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TITLE VI—INNOVATION

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SEC. 6020. SURFACE TRANSPORTATION SYSTEM FUNDING ALTERNATIVES.

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund.

[(b) APPLICATION.—To be eligible for a grant under this section, a State or group of States shall submit to the Secretary an application in such form and containing such information as the Secretary may require.]

(b) ELIGIBILITY.—

(1) APPLICATION.—To be eligible for a grant under this section, a State or group of States shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) ELIGIBLE PROJECTS.—The Secretary may provide grants to States or a group of States under this section for the following projects:

(A) STATE PILOT PROJECTS.—

(i) IN GENERAL.—A pilot project to demonstrate a user-based alternative revenue mechanism in a State.

(ii) LIMITATION.—If an applicant has previously been awarded a grant under this section, such applicant's proposed pilot project must be comprised of core activities or iterations not substantially similar in manner or scope to activities previously carried out by the applicant with a grant for a project under this section.

(B) STATE IMPLEMENTATION PROJECTS.—A project—

(i) to implement a user-based alternative revenue mechanism that collects revenue to be expended on projects for the surface transportation system of the State; or

(ii) that demonstrates progress towards implementation of a user-based alternative revenue mechanism, with consideration for previous grants awarded to the applicant under this section.

(c) OBJECTIVES.—The Secretary shall ensure that the activities carried out using funds provided under this section meet the following objectives:

(1) To test the design, acceptance, and implementation of [2 or more future] user-based alternative revenue mechanisms.

(2) To improve the functionality of such user-based alternative revenue mechanisms.

(3) To conduct outreach to increase public awareness regarding the need for alternative funding sources for surface transportation programs and to provide information on possible approaches.

(4) To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms.

(5) To minimize the administrative cost of any potential user-based alternative revenue mechanisms.

(6) To test solutions to ensure the privacy and security of data collected for the purpose of implementing a user-based alternative revenue mechanism.

(d) USE OF FUNDS.—A State or group of States receiving funds under this section [to test the design, acceptance, and implementation of a user-based alternative revenue mechanism] *to test the design and acceptance of, or implement, a user-based alternative revenue mechanism*—

(1) shall address—

(A) the implementation, interoperability, public acceptance, and other potential hurdles to the adoption of the user-based alternative revenue mechanism;

(B) the protection of personal privacy;

(C) the use of independent and private third-party vendors to collect fees and operate the user-based alternative revenue mechanism;

(D) market-based congestion mitigation, if appropriate;

(E) equity concerns, including the impacts of the user-based alternative revenue mechanism on differing income groups, various geographic areas, and the relative burdens on rural and urban drivers;

(F) ease of compliance for different users of the transportation system; and

(G) the reliability and security of technology used to implement the user-based alternative revenue mechanism; and

(2) may address—

(A) the flexibility and choices of user-based alternative revenue mechanisms, including the ability of users to select from various technology and payment options;

(B) the cost of administering the user-based alternative revenue mechanism; and

(C) the ability of the administering entity to audit and enforce user compliance.

(e) CONSIDERATION.—The Secretary shall consider geographic diversity in awarding grants under this section.

(f) LIMITATIONS ON REVENUE COLLECTED.—Any revenue collected through a user-based alternative revenue mechanism established using funds provided under this section shall not be considered a toll under section 301 of title 23, United States Code.

(g) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section may not exceed [50 percent] *80 percent* of the total cost of the activity.

(h) REPORT TO SECRETARY.—Not later than 1 year after the date on which the first eligible entity receives a grant under this section, and each year thereafter, each recipient of a grant under this section shall submit to the Secretary a report that describes—

(1) how the demonstration activities carried out with grant funds meet the objectives described in subsection (c); and

(2) lessons learned for future deployment of alternative revenue mechanisms that utilize a user fee structure.

(i) [BIENNIAL] *ANNUAL* REPORTS.—Not later than [2 years after the date of enactment of this Act] *1 year after the date of enactment of the INVEST in America Act*, and [every 2 years thereafter] *every year thereafter* until the completion of the demonstration activities under this section, the Secretary shall make available to the public on an Internet website a report describing the progress of the demonstration activities *and containing a determination of the characteristics of the most successful mechanisms with the highest potential for future widespread deployment*.

[(j) FUNDING.—Of the funds authorized to carry out section 503(b) of title 23, United States Code—

[(1) $15,000,000 shall be used to carry out this section for fiscal year 2016; and

[(2) $20,000,000 shall be used to carry out this section for each of fiscal years 2017 through 2020.

[(k) GRANT FLEXIBILITY.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications that meet the requirements of this section for a fiscal year, Secretary shall transfer to the program under section 503(b) of title 23, United States Code—

[(1) any of the funds reserved for the fiscal year under subsection (j) that the Secretary has not yet awarded under this section; and

[(2) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under paragraph (1).]

(j) FUNDING.—Of amounts made available to carry out this section—

(1) for fiscal year 2022, $17,500,000 shall be used to carry out projects under subsection (b)(2)(A) and $17,5000,000 shall be used to carry out projects under subsection (b)(2)(B);

(2) for fiscal year 2023, $15,000,000 shall be used to carry out projects under subsection (b)(2)(A) and $20,000,000 shall be used to carry out projects under subsection (b)(2)(B);

(3) for fiscal year 2024, $12,500,000 shall be used to carry out projects under subsection (b)(2)(A) and $22,500,000 shall be used to carry out projects under subsection (b)(2)(B); and

(4) for fiscal year 2025, $10,000,000 shall be used to carry out projects under subsection (b)(2)(A) and $25,000,000 shall be used to carry out projects under subsection (b)(2)(B).

(k) FUNDING FLEXIBILITY.—Funds made available in a fiscal year for making grants for projects under subsection (b)(2) that are not obligated in such fiscal year may be made available in the following fiscal year for projects under such subsection or for the national surface transportation system funding pilot under section 5402 of the INVEST in America Act.

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[SEC. 6028. PERFORMANCE MANAGEMENT DATA SUPPORT PROGRAM.

[(a) PERFORMANCE MANAGEMENT DATA SUPPORT.—The Administrator of the Federal Highway Administration shall develop, use,

and maintain data sets and data analysis tools to assist metropolitan planning organizations, States, and the Federal Highway Administration in carrying out performance management analyses (including the performance management requirements under section 150 of title 23, United States Code).

[(b) INCLUSIONS.—The data analysis activities authorized under subsection (a) may include—

[(1) collecting and distributing vehicle probe data describing traffic on Federal-aid highways;

[(2) collecting household travel behavior data to assess local and cross-jurisdictional travel, including to accommodate external and through travel;

[(3) enhancing existing data collection and analysis tools to accommodate performance measures, targets, and related data, so as to better understand trip origin and destination, trip time, and mode;

[(4) enhancing existing data analysis tools to improve performance predictions and travel models in reports described in section 150(e) of title 23, United States Code; and

[(5) developing tools—

[(A) to improve performance analysis; and

[(B) to evaluate the effects of project investments on performance.

[(c) FUNDING.—From amounts authorized to carry out the Highway Research and Development Program, the Administrator of the Federal Highway Administration may use up to $10,000,000 for each of fiscal years 2016 through 2020 to carry out this section.]

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TITLE XI—RAIL

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Subtitle D—Safety

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SEC. 11406. SPEED LIMIT ACTION PLANS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, each railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation, in consultation with any applicable host railroad carrier, shall survey its entire system and identify each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel.

(b) ACTION PLANS.—Not later than 120 days after the date that the survey under subsection (a) is complete, a railroad carrier described in subsection (a) shall submit to the Secretary an action plan that—

(1) identifies each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel;

(2) describes appropriate actions to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under paragraph (1), including—

(A) modification to automatic train control systems, if applicable, or other signal systems;

(B) increased crew size;

(C) installation of signage alerting train crews of the maximum authorized speed for passenger trains in each location identified under paragraph (1);

(D) installation of alerters;

(E) increased crew communication; and

(F) other practices;

(3) contains milestones and target dates for implementing each appropriate action described under paragraph (2); and

(4) ensures compliance with the maximum authorized speed at each location identified under paragraph (1).

(c) APPROVAL.—Not later than 90 days after the date on which an action plan is submitted under subsection (b) *or subsection (d)(2)*, the Secretary shall approve, approve with conditions, or disapprove the action plan.

(d) PERIODIC REVIEWS AND UPDATES.—Each railroad carrier that files an action plan under subsection (b) shall—

(1) not later than 1 year after the date of enactment of the TRAIN Act, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under subsection (b)(1); and

(2) not later than 90 days prior to implementing any operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan that addresses such operational or territorial operating change.

[(d)**]** *(e)* ALTERNATIVE SAFETY MEASURES.—The Secretary may exempt from the requirements of this section each segment of track for which operations are governed by a positive train control system certified under section 20157 of title 49, United States Code, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

[(e)**]** *(f)* REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(1) the actions railroad carriers have taken in response to Safety Advisory 2013-08, entitled "Operational Tests and Inspections for Compliance With Maximum Authorized Train Speeds and Other Speed Restrictions";

(2) the actions railroad carriers have taken in response to Safety Advisory 2015-03, entitled "Operational and Signal Modifications for Compliance with Maximum Authorized Passenger Train Speeds and Other Speed Restrictions"; and

(3) the actions the Federal Railroad Administration has taken to evaluate or incorporate the information and findings arising from the safety advisories referred to in paragraphs (1) and (2) into the development of regulatory action and oversight activities.

[(f)] *(g)* SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from applying the requirements of this section to other segments of track at high risk of overspeed derailment.

(h) PROHIBITION.—No new intercity rail passenger transportation or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with this section.

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TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Transportation Equity Act for the 21st Century".

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

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TITLE I—FEDERAL-AID HIGHWAYS

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Subtitle B—General Provisions

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[SEC. 1216. INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS.

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[(b) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and re-

habilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

[(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

[(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

[(A) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

[(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

[(C) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

[(D) A facility management plan that includes—

[(i) a plan for implementing the imposition of tolls on the facility;

[(ii) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

[(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

[(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

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

[(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

[(A) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

[(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

[(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

[(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable;

[(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System; and

[(F) the State has the authority required for the project to proceed.

[(5) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

[(A) all toll revenues received from operation of the toll facility will be used only for—

[(i) debt service;

[(ii) reasonable return on investment of any private person financing the project; and

[(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

[(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

[(6) REQUIREMENTS FOR PROJECT COMPLETION.—

[(A) GENERAL TERM FOR EXPIRATION OF PROVISIONAL APPLICATION.—An application provisionally approved by the Secretary under this subsection shall expire 3 years after the date on which the application was provisionally approved if the State has not—

[(i) submitted a complete application to the Secretary that fully satisfies the eligibility criteria under paragraph (3) and the selection criteria under paragraph (4);

[(ii) completed the environmental review and permitting process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the pilot project; and

[(iii) executed a toll agreement with the Secretary.

[(B) EXCEPTIONS TO EXPIRATION.—Notwithstanding subparagraph (A), the Secretary may extend the provisional approval for not more than 1 additional year if the State demonstrates material progress toward implementation of the project as evidenced by—

[(i) substantial progress in completing the environmental review and permitting process for the pilot project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

[(ii) funding and financing commitments for the pilot project;

[(iii) expressions of support for the pilot project from State and local governments, community interests, and the public; and

[(iv) submission of a facility management plan pursuant to paragraph (3)(D).

[(C) CONDITIONS FOR PREVIOUSLY PROVISIONALLY APPROVED APPLICATIONS.—A State with a provisionally approved application for a pilot project as of the date of enactment of the FAST Act shall have 1 year after that date of enactment to meet the requirements of subparagraph (A) or receive an extension from the Secretary under subparagraph (B), or the application will expire.

[(7) DEFINITION.—In this subsection, the term "provisional approval" or "provisionally approved" means the approval by the Secretary of a partial application under this subsection, including the reservation of a slot in the pilot program.

[(8) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

[(9) PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

[(10) INTERSTATE SYSTEM DEFINED.—In this subsection, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.]

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INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

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TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

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SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

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(b) VALUE PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1

year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

(8) FUNDING.—

(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

(i) for fiscal year 2005, $11,000,000; and

(ii) for each of fiscal years 2006 through 2009, $12,000,000.

(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

(iii) shall be available for any purpose eligible for funding under section 133 of such title.

(C) CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection.

(9) SUNSET.—The Secretary may not consider an expression of interest submitted under this section after the date of enactment of this paragraph.

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—(1) Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities.

(2) Upon the request of any State Department of Transportation that was authorized to enter into a tolling agreement under section 120(c) of Public Law 100–17 (101 STAT. 159), the Secretary is authorized to modify the agreement entered into under Public Law 100–17, as follows. The Secretary shall authorize the use of excess toll revenues for any other purpose for which Federal funds may be obligated under title 23, United States Code, provided the State—

(A) AVAILABILITY.—certifies annually that the tolled facility is being adequately maintained; and

(B) AVAILABILITY.—agrees to comply with the audit requirements in section 129(a)(3)(B) of title 23, United States Code.

(3) For the purposes of paragraph (2), "excess toll revenues" means revenues in excess of amounts necessary for operation and maintenance; debt service; reasonable return on investment of any private person or entity that may be authorized by the State to operate and maintain the facility; and any cost necessary for improvement, including reconstruction, resurfacing, restoration, and rehabilitation.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I–78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used—

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

* * * * * * *

SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors and evacuation routes of national significance; to in-

clude those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor commencing on the Atlantic Coast in the Hampton Roads area going westward across Virginia to the vicinity of Lynchburg, Virginia, continuing west to serve Roanoke and then to a West Virginia corridor centered around Beckley to Welch as part of the Coalfields Expressway described in section 1069(v), then to Williamson sharing a common corridor with the I–73/74 Corridor (referred to in item 12 of the table contained in subsection (f)), then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, and Somerset; then, generally following the Louie B. Nunn Parkway corridor from Somerset to Columbia, to Glasgow, to I–65; then to Bowling Green, Hopkinsville, Benton, and Paducah, into Illinois, and into Missouri and exiting western Missouri and moving westward across southern Kansas.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan. The Sault Ste. Marie terminus shall be reached via a corridor connecting Adrian, Jackson, Lansing, Mount Pleasant, and Grayling, Michigan.

(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

(II) I–581 to I–81 in the vicinity of Roanoke;

(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

(IV) United States Route 460 to the West Virginia State line.

(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

(I) in the case of I–73—

(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

(bb) State Route 68 to I–40;

(cc) I–40 to United States Route 220 in Greensboro;

(dd) United States Route 220 to United States Route 1 near Rockingham;

(ee) United States Route 1 to the South Carolina State line; and

(ff) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina, including a connection to Andrews following the route 41 corridor and to Camden following the U.S. Route 521 corridor; and

(II) in the case of I–74—

(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina;

(ee) United States Route 220 to United States Route 74 near Rockingham;

(ff) United States Route 74 to United States Route 76 near Whiteville;

(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

(hh) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York, including United States Route 322 between United States Route 220 and I–80.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor from Raleigh, North Carolina, through Rocky Mount, Williamston, and Elizabeth City, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota as follows:

(A) In the State of Colorado, the Heartland Expressway Corridor shall generally follow—

(i) Interstate 76 from Denver to Brush; and

(ii) Colorado Highway 71 from Limon to the border between the States of Colorado and Nebraska.

(B) In the State of Nebraska, the Heartland Expressway Corridor shall generally follow—

(i) Nebraska Highway 71 from the border between the States of Colorado and Nebraska to Scottsbluff;

(ii) United States Route 26 from Scottsbluff to the intersection with State Highway L62A;

(iii) State Highway L62A from the intersection with United States Route 26 to United States Route 385 north of Bridgeport;

(iv) United States Route 385 to the border between the States of Nebraska and South Dakota; and

(v) United States Highway 26 from Scottsbluff to the border of the States of Nebraska and Wyoming.

(C) In the State of Wyoming, the Heartland Expressway Corridor shall generally follow United States Highway 26 from the border of the States of Nebraska and Wyoming to the termination at Interstate 25 at Interchange number 94.

(D) In the State of South Dakota, the Heartland Expressway Corridor shall generally follow—

(i) United States Route 385 from the border between the States of Nebraska and South Dakota to the intersection with State Highway 79; and

(ii) State Highway 79 from the intersection with United States Route 385 to Rapid City.

(15) Urban Highway Corridor along M–59 in Michigan.

(16) Economic Lifeline Corridor along I–15 and I–40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69

through Indianapolis, Indiana, through Evansville, Indiana, Memphis, Tennessee, Mississippi, Arkansas, Shreveport/Bossier, Louisiana, to Houston, Texas, and to the Lower Rio Grande Valley at the border between the United States and Mexico, as follows:

(A) In Michigan, the corridor shall be from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

(B) In Michigan and Illinois, the corridor shall be from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.

(C) In Tennessee, Mississippi, Arkansas, and Louisiana, the Corridor shall—

(i) follow the alignment generally identified in the Corridor 18 Special Issues Study Final Report; and

(ii) include a connection between the Corridor east of Wilmar, Arkansas, and west of Monticello, Arkansas, to Pine Bluff, Arkansas.

(D) In the Lower Rio Grande Valley, the Corridor shall—

(i) include United States Route 77 from the Rio Grande River to Interstate Route 37 at Corpus Christi, Texas, and then to Victoria, Texas, via U.S. Route 77;

(ii) include United States Route 281 from the Rio Grande River to Interstate Route 37 and then to Victoria, Texas, via United States Route 59;

(iii) include the Corpus Christi Northside Highway and Rail Corridor from the existing intersection of United States Route 77 and Interstate Route 37 to United States Route 181, including FM511 from United States Route 77 to the Port of Brownsville; and

(iv) include Texas State Highway 44 from United States Route 59 at Freer, Texas, to Texas State Highway 358.

(E) In Kentucky, the corridor shall utilize the existing Purchase Parkway from the Tennessee State line to Interstate 24, follow Interstate Route 24 to the Wendell H. Ford Western Kentucky Parkway, then utilize the existing Wendell H. Ford Western Kentucky Parkway and Edward T. Breathitt (Pennyrile) Parkway to Henderson.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of Interstate Route 80.

(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota, including I–29 be-

tween Kansas City and the Canadian border and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I–135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Salina, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I–29 in Sioux City, Iowa.

(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.

(26) The CANAMEX Corridor from Nogales, Arizona, through Las Vegas, Nevada, to Salt Lake City, Utah, to Idaho Falls, Idaho, to Montana, to the Canadian Border as follows:

(A) In the State of Arizona, the CANAMEX Corridor shall generally follow—

(i) I–19 from Nogales to Tucson;

(ii) I–10 from Tucson to Phoenix; and

(iii) United States Route 93 in the vicinity of Phoenix to the Nevada Border.

(B) In the State of Nevada, the CANAMEX Corridor shall follow—

(i) United States Route 93 from the Arizona Border to Las Vegas; and

(ii) I–15 from Las Vegas to the Utah Border.

(C) From the Utah Border through Montana to the Canadian Border, the CANAMEX Corridor shall follow I–15.

(27) The Camino Real Corridor from El Paso, Texas, to Denver, Colorado, as follows:

(A) In the State of Texas, the Camino Real Corridor shall generally follow—

(i) arterials from the international ports of entry to I–10 in El Paso County; and

(ii) I–10 from El Paso County to the New Mexico border.

(B) In the State of New Mexico, the Camino Real Corridor shall generally follow—

(i) I–10 from the Texas Border to Las Cruces; and

(ii) I–25 from Las Cruces to the Colorado Border.

(C) In the State of Colorado, the Camino Real Corridor shall generally follow I–25 from the New Mexico border to Denver continuing to the Wyoming border.

(D) In the State of Wyoming, the Camino Real Corridor shall generally follow—

(i) I–25 north to join with I–90 at Buffalo; and

(ii) I–90 to the Montana border.

(E) In the State of Montana, the Camino Real Corridor shall generally follow—

(i) I–90 to Billings; and

(ii) Montana Route 3, United States Route 12, United States Route 191, United States Route 87, to I–15 at Great Falls; and

(iii) I–15 from Great Falls to the Canadian border.

(28) The Birmingham Northern Beltline beginning at I–59 in the vicinity of Trussville, Alabama, and traversing westwardly intersecting with United States Route 75, United States Route 79, and United States Route 31; continuing southwestwardly intersecting United States Route 78 and terminating at I–59 with the I–459 interchange.

(29) The Coalfields Expressway beginning at Beckley, West Virginia, to Pound, Virginia, generally following the corridor defined as State Routes 54, 97, 10, 16, and 83.

(30) Interstate Route 5 in the States of California, Oregon, and Washington, including California State Route 905 between Interstate Route 5 and the Otay Mesa Port of Entry.

(31) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania and West Virginia.

(32) The Wisconsin Development Corridor from the Iowa, Illinois, and Wisconsin border near Dubuque, Iowa, to the Upper Mississippi River Basin near Eau Claire, Wisconsin, as follows:

(A) United States Route 151 from the Iowa border to Fond du Lac via Madison, Wisconsin, then United States Route 41 from Fond du Lac to Marinette via Oshkosh, Appleton, and Green Bay, Wisconsin.

(B) State Route 29 from Green Bay to I–94 via Wausau, Chippewa Falls, and Eau Claire, Wisconsin.

(C) United States Route 10 from Appleton to Marshfield, Wisconsin.

(33) The Capital Gateway Corridor following United States Route 50 from the proposed intermodal transportation center connected to and including the I–395 corridor in Washington, D.C., to the intersection of United States Route 50 with Kenilworth Avenue and the Baltimore-Washington Parkway in Maryland.

(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.

(35) Everett-Tacoma FAST Corridor.

(36) New York and Pennsylvania State Route 17 from Harriman, New York, to its intersection with I–90 in Pennsylvania.

(37) United States Route 90 from I–49 in Lafayette, Louisiana, to I–10 in New Orleans.

(38)(A) The Ports-to-Plains Corridor from Laredo, Texas, via I–27 to Denver, Colorado, shall include:

(i) In the State of Texas the Ports-to-Plains Corridor shall generally follow—

(I) I–35 from Laredo to United States Route 83 at Exit 18;

(II) United States Route 83 from Exit 18 to Carrizo Springs;

(III) United States Route 277 from Carrizo Springs to San Angelo;

(IV) United States Route 87 from San Angelo to Sterling City;

(V) From Sterling City to Lamesa, the Corridor shall follow United States Route 87 and, the Corridor shall also follow Texas Route 158 from Sterling City to I–20, then via I–20 West to Texas Route 349 and, Texas Route 349 from Midland to Lamesa;

(VI) United States Route 87 from Lamesa to Lubbock;

(VII) I–27 from Lubbock to Amarillo;

(VIII) United States Route 287 from Amarillo to Dumas; and

(IX) United States Route 287 from Dumas to the border between the States of Texas and Oklahoma, and also United States Route 87 from Dumas to the border between the States of Texas and New Mexico.

(ii) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow United States Route 287 from the border between the States of Texas and Oklahoma to the border between the States of Oklahoma and Colorado.

(iii) In the State of Colorado, the Ports-to-Plains Corridor shall generally follow—

(I) United States Route 287 from the border between the States of Oklahoma and Colorado to Limon; and

(II) Interstate Route 70 from Limon to Denver.

(iv) In the State of New Mexico, the Ports-to-Plains Corridor shall generally follow United States Route 87 from the border between the States of Texas and New Mexico to Raton.

(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i) shall take effect only if the Texas Transportation Commission has not designated the Ports-to-Plains Corridor in Texas by June 30, 2001.

(39) United States Route 63 from Marked Tree, Arkansas, to I–55.

(40) The Greensboro Corridor from Danville, Virginia, to Greensboro, North Carolina, along United States Route 29.

(41) The Falls-to-Falls Corridor—United States Route 53 from International Falls on the Minnesota/Canada border to Chippewa Falls, Wisconsin.

(42) The portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi.

(43) The United States Route 95 Corridor from the Canadian border at Eastport, Idaho, to the Oregon State border.

(44) The Louisiana Highway 1 corridor from Grand Isle, Louisiana, along Louisiana Highway 1, to the intersection with United States Route 90.

(45) The United States Route 78 Corridor from Memphis, Tennessee, to Corridor X of the Appalachian development highway system near Fulton, Mississippi, and Corridor X of the Appalachian development highway system extending from near Fulton, Mississippi, to near Birmingham, Alabama.

(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

(47) Interstate Route 87 from the Quebec border to New York City.

(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.

(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.

(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:

(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.

(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.

(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.

(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.

(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.

(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.

(57) United States Route 41 corridor between Interstate Route 94 via Interstate Route 894 and Highway 45 near Milwaukee and Interstate Route 43 near Green Bay in the State of Wisconsin.

(58) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, and north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.

(59) The Central North American Trade Corridor from the border between North Dakota and South Dakota, north on United States Route 83 through Bismark and Minot, North Dakota, to the international border with Canada.

(60) The Providence Beltline Corridor beginning at Interstate Route 95 in the vicinity of Hope Valley, Rhode Island, traversing eastwardly intersecting and merging into Interstate Route 295, continuing northeastwardly along Interstate Route 95, and terminating at the Massachusetts border, and including the western bypass of Providence, Rhode Island, from Interstate Route 295 to the Massachusetts border.

(61) In the State of Missouri, the corridors consisting of the following highways:

(A) Interstate Route 70, from Interstate Route 29/35 to United States Route 61/Avenue of the Saints.

(B) Interstate Route 72/United States Route 36, from the intersection with Interstate Route 29 to United States Route 61/Avenue of the Saints.

(C) United States Route 67, from Interstate Route 55 to the Arkansas State line.

(D) United States Route 65, from United States Route 36/Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(E) United States Route 63, from United States Route 36 and the proposed Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(F) United States Route 54, from the Kansas State line to United States Route 61/Avenue of the Saints.

(62) The Georgia Developmental Highway System Corridors identified in section 32–4–22 of the Official Code of Georgia, Annotated.

(63) The Liberty Corridor, a corridor in an area encompassing very critical and significant transportation infrastructure providing regional, national, and international access through the State of New Jersey, including Interstate Routes

95, 80, 287, and 78, United States Routes 1, 9, and 46, and State Routes 3 and 17, and portways and connecting infrastructure.

(64) The corridor in an area of passage in the State of New Jersey serving significant interstate and regional traffic, located near the cities of Camden, New Jersey, and Philadelphia, Pennsylvania, and including Interstate Route 295, State Route 42, United States Route 130, and Interstate Routes 76 and 676.

(65) The Interstate Route 95 Corridor beginning at the New York State line and continuing through Connecticut to the Rhode Island State line.

(66) The Interstate Route 91 Corridor from New Haven, Connecticut, to the Massachusetts State line.

(67) The Fairbanks-Yukon International Corridor consisting of the portion of the Alaska Highway from the international border with Canada to the Richardson Highway, and the Richardson Highway from its junction with the Alaska Highway to Fairbanks, Alaska.

(68) The Washoe County Corridor and the Intermountain West Corridor, which shall generally follow—

(A) for the Washoe County Corridor, along Interstate Route 580/United States Route 95/United States Route 95A from Reno, Nevada, to Las Vegas, Nevada; and

(B) for the Intermountain West Corridor, from the vicinity of Las Vegas, Nevada, north along United States Route 95 terminating at Interstate Route 80.

(69) The Cross Valley Connector connecting Interstate Route 5 and State Route 14, Santa Clarita Valley, California.

(70) The Economic Lifeline corridor, along Interstate Route 15 and Interstate Route 40, California, Arizona, and Nevada, including Interstate Route 215 South from near San Bernadino, California, to Riverside, California, and State Route 91 from Riverside, California, to the intersection with Interstate Route 15 near Corona, California.

(71) The High Desert Corridor/E–220 from Los Angeles, California, to Las Vegas, Nevada, via Palmdale and Victorville, California.

(72) The North-South corridor, along Interstate Route 49 North, from Kansas City, Missouri, to Shreveport, Louisiana.

(73) The Louisiana Highway corridor, along Louisiana Highway 1, from Grand Isle, Louisiana, to the intersection with United States Route 90.

(74) The portion of United States Route 90 from Interstate Route 49 in Lafayette, Louisiana, to Interstate Route 10 in New Orleans, Louisiana.

(75) The Louisiana 28 corridor from Fort Polk to Alexandria, Louisiana.

(76) The portion of Interstate Route 75 from Toledo, Ohio, to Cincinnati, Ohio.

(77) The portion of United States Route 24 from the Indiana/Ohio State line to Toledo, Ohio.

(78) The portion of Interstate Route 71 from Cincinnati, Ohio, to Cleveland, Ohio.

(79) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 to Interstate Route 80.

(80) The Intercounty Connector, a new east-west multimodal highway between Interstate Route 270 and Interstate Route 95/United States Route 1 in Montgomery and Prince George's Counties, Maryland.

(81) United States Route 117/Interstate Route 795 from United States Route 70 in Goldsboro, Wayne County, North Carolina, to Interstate Route 40 west of Faison, Sampson County, North Carolina.

(82) United States Route 70 from its intersection with Interstate Route 40 in Garner, Wake County, North Carolina, to the Port at Morehead City, Carteret County, North Carolina.

(83) The Sonoran Corridor along State Route 410 connecting Interstate Route 19 and Interstate Route 10 south of the Tucson International Airport.

(84) The Central Texas Corridor commencing at the logical terminus of Interstate Route 10, generally following portions of United States Route 190 eastward, passing in the vicinity Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of Texas Highway 63 at the Sabine River Bridge at Burrs Crossing.

(85) Interstate Route 81 in New York from its intersection with Interstate Route 86 to the United States-Canadian border.

(86) Interstate Route 70 from Denver, Colorado, to Salt Lake City, Utah.

(87) The Oregon 99W Newberg-Dundee Bypass Route between Newberg, Oregon, and Dayton, Oregon.

(88) Interstate Route 205 in Oregon from its intersection with Interstate Route 5 to the Columbia River.

(89) I–57 Corridor Extension as follows: In Arkansas, the corridor shall follow United States Route 67 in North Little Rock, Arkansas, from I–40 to United States Route 412, then continuing generally northeast to the State line, and in Missouri, the corridor shall continue generally north from the Arkansas State line to Poplar Bluff, Missouri, and then follow United States Route 60 to I–57.

(90) The Edward T. Breathitt Parkway from Interstate 24 to Interstate 69.

(91) The Wendell H. Ford (Western Kentucky) Parkway from the interchange with the William H. Natcher Parkway in Ohio County, Kentucky, west to the interchange of the West-

ern Kentucky Parkway with the Edward T. Breathitt (Pennyrile) Parkway.

(92) The Louisiana Capital Region High Priority Corridor, which shall generally follow—

(A) Interstate 10, between its intersections with Interstate 12 and Louisiana Highway 415;

(B) Louisiana Highway 415, between its intersections with Interstate 10 and United States route 190;

(C) United States route 190, between its intersections with Louisiana Highway 415 and intersection with Interstate110;

(D) Interstate 110, between its intersections with United States route 190 and Interstate 10;

(E) Louisiana Highway 30, near St. Gabriel, LA and its intersection with Interstate 10;

(F) Louisiana Highway 1, near White Castle, LA and its intersection with Interstate 10; and

(G) A bridge connecting Louisiana Highway 1 with Louisiana Highway 30, south of the Interstate described in subparagraph (A).

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I–55 in the vicinity of Route A in Jefferson County, Missouri. A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois. A feasibility study may be conducted under this paragraph to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of

projects in carrying out projects on corridors identified in subsection (c).

(5) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(A) IN GENERAL.—The portions of the routes referred to in subsection (c)(1), subsection (c)(3) (relating solely to the Kentucky Corridor), clauses (i), (ii), and (except with respect to Georgetown County) (iii) of subsection (c)(5)(B), subsection (c)(9), subsection (c)(13), subsection (c)(18), subsection (c)(20), subparagraphs (A) and (B)(i) of subsection (c)(26), subsection (c)(36), subsection (c)(37), subsection (c)(40), subsection (c)(42), subsection (c)(45), subsection (c)(54), subsection (c)(57), subsection (c)(68)(B), subsection (c)(81), subsection (c)(82), subsection (c)(83), subsection (c)(89), subsection (c)(90), and subsection (c)(91) that are not a part of the Interstate System are designated as future parts of the Interstate System. Any segment of such routes shall become a part of the Interstate System at such time as the Secretary determines that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP–21.

(B) INTERSTATE ROUTE 376.—

(i) DESIGNATION OF INTERSTATE ROUTE 376.—

(I) IN GENERAL.—The routes referred to in subsection (c)(79), except the portion of Pennsylvania Turnpike Route 60 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

(II) SIGNS.—The State of Pennsylvania shall have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60) and erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(79) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.

(C) ROUTES.—

(i) DESIGNATION.—The portion of the route referred to in subsection (c)(9) is designated as Inter-

state Route I–99. The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I–69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I–69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(D)(i) shall be designated as Interstate Route I–69 East, and the segment identified in subsection (c)(18)(D)(ii) shall be designated as Interstate Route I–69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I–69. The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86. The Louie B. Nunn Parkway corridor referred to in subsection (c)(3) shall be designated as Interstate Route 66. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(3) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 66. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(3) for the Commonwealth, as segments of future Interstate Route 66. The Purchase Parkway corridor referred to in subsection (c)(18)(E) shall be designated as Interstate Route 69. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(18) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 69. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(18) for the Commonwealth, as segments of future Interstate Route 69. The route referred to in subsection (c)(45) is designated as Interstate Route I–22. The routes referred to in subparagraphs (A) and (B)(i) of subsection (c)(26) and in subsection (c)(68)(B) are designated as Interstate Route I–11. The route referred to in subsection (c)(84) is designated as Interstate Route I–14. The route referred to in subsection (c)(89) is designated as Interstate Route I–57. The route referred to in subsection (c)(90) is designated as Interstate Route I–169. The route referred to in subsection (c)(91) is designated as Interstate Route I–569.

(ii) RULEMAKING TO DETERMINE FUTURE INTERSTATE SIGN ERECTION CRITERIA.—The Secretary shall conduct a rulemaking to determine the appropriate criteria for the erection of signs for future routes on the Interstate System identified in subparagraph (A). Such rulemaking shall be undertaken in consultation with States and local officials and shall be completed not later than December 31, 1998.

(D) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as part of the Interstate System by this paragraph and the mileage of such segments shall be treated in the manner described in the last 2 sentences of section 139(a) of title 23, United States Code.

(E) USE OF FUNDS.—

(i) GENERAL RULE.—Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, may be used on a project to construct a portion of a route referred to in this paragraph to standards set forth in section 109(b) of such title if the State determines that the project for which the funds were originally apportioned is unreasonably delayed or no longer viable.

(ii) LIMITATION.—If funds apportioned under section 104(b)(5)(A) of title 23, United States Code, for completing a segment of the Interstate System are used on a project pursuant to this subparagraph, no interstate construction funds may be made available, after the date of the enactment of this paragraph, for construction of such segment.

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
1.	Pennsylvania	For the segment described in item 6 of this table and up to $11,000,000 for upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I–80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72 and up to $1,500,000 from the State of Alabama's share of the project for modification of the Keller Memorial Bridge in Decatur, Alabama, to a pedestrian structure	25.4

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6
4.	Arkansas	For construction of Highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
16.	Michigan	To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6
18.	Indiana	To construct a 4-lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)	59.2
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana, and up to $6,000,000 for surface transportation projects in Louisiana, including $4,500,000 for the I–10 and I–610 project in Jefferson Parish, Louisiana, in the corridor between the St. Charles Parish line and Tulane Avenue, $500,000 for noise analysis and safety abatement measures or barriers along the Lakeview section of I–610 in New Orleans, and $1,000,000 for 3 highway studies (including $250,000 for a study to widen United States Route 84/Louisiana Route 6 traversing north Louisiana, $250,000 for a study to widen Louisiana Route 42 from United States Route 61 to Louisiana Route 44 and extend to I–10 in East Ascension Parish, and $500,000 for a study to connect I–20 on both sides of the Ouachita River)	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I–66 Transamerica Highway Feasibility study	1.0

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Evansville, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all

requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

* * * * * * *

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(9) The States of South Dakota and Nebraska may, at their discretion, utilize funds allocated to them for the project described in section 1105(f)(17) of this Act to support the Nebraska/South Dakota feasibility study described in section 1105(f)(7) and may also utilize funds allocated for that study for the project described in section 1105(f)(17).

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

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INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

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TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

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SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

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(b) VALUE PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

(8) FUNDING.—

(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

(i) for fiscal year 2005, $11,000,000; and

(ii) for each of fiscal years 2006 through 2009, $12,000,000.

(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

(iii) shall be available for any purpose eligible for funding under section 133 of such title.

(C) CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection.

(9) SUNSET.—The Secretary may not consider an expression of interest submitted under this section after the date of enactment of this paragraph.

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—(1) Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities.

(2) Upon the request of any State Department of Transportation that was authorized to enter into a tolling agreement under section 120(c) of Public Law 100–17 (101 STAT. 159), the Secretary is authorized to modify the agreement entered into under Public Law 100–17, as follows. The Secretary shall authorize the use of excess toll revenues for any other purpose for which Federal funds may be obligated under title 23, United States Code, provided the State—

(A) AVAILABILITY.—certifies annually that the tolled facility is being adequately maintained; and

(B) AVAILABILITY.—agrees to comply with the audit requirements in section 129(a)(3)(B) of title 23, United States Code.

(3) For the purposes of paragraph (2), "excess toll revenues" means revenues in excess of amounts necessary for operation and maintenance; debt service; reasonable return on investment of any private person or entity that may be authorized by the State to operate and maintain the facility; and any cost necessary for improvement, including reconstruction, resurfacing, restoration, and rehabilitation.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I–78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under

section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used—

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

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SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors and evacuation routes of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor commencing on the Atlantic Coast in the Hampton Roads area going westward across Virginia to the vicinity of Lynchburg, Virginia, continuing west to serve Roanoke and then to a West Virginia corridor centered around Beckley to Welch as part of the Coalfields Expressway described in section 1069(v), then to Williamson sharing a common corridor with the I–73/74 Corridor (referred to in item 12 of the table contained in sub-

section (f)), then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, and Somerset; then, generally following the Louie B. Nunn Parkway corridor from Somerset to Columbia, to Glasgow, to I–65; then to Bowling Green, Hopkinsville, Benton, and Paducah, into Illinois, and into Missouri and exiting western Missouri and moving westward across southern Kansas.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan. The Sault Ste. Marie terminus shall be reached via a corridor connecting Adrian, Jackson, Lansing, Mount Pleasant, and Grayling, Michigan.

(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

(II) I–581 to I–81 in the vicinity of Roanoke;

(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

(IV) United States Route 460 to the West Virginia State line.

(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

(I) in the case of I–73—

(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

(bb) State Route 68 to I–40;

(cc) I–40 to United States Route 220 in Greensboro;

(dd) United States Route 220 to United States Route 1 near Rockingham;

(ee) United States Route 1 to the South Carolina State line; and

(ff) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina, including a connection to Andrews following the route 41 corridor and to Camden following the U.S. Route 521 corridor; and

(II) in the case of I–74—

(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina;

(ee) United States Route 220 to United States Route 74 near Rockingham;

(ff) United States Route 74 to United States Route 76 near Whiteville;

(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

(hh) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York, including United States Route 322 between United States Route 220 and I–80.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor from Raleigh, North Carolina, through Rocky Mount, Williamston, and Elizabeth City, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota as follows:

(A) In the State of Colorado, the Heartland Expressway Corridor shall generally follow—

(i) Interstate 76 from Denver to Brush; and

(ii) Colorado Highway 71 from Limon to the border between the States of Colorado and Nebraska.

(B) In the State of Nebraska, the Heartland Expressway Corridor shall generally follow—

(i) Nebraska Highway 71 from the border between the States of Colorado and Nebraska to Scottsbluff;

(ii) United States Route 26 from Scottsbluff to the intersection with State Highway L62A;

(iii) State Highway L62A from the intersection with United States Route 26 to United States Route 385 north of Bridgeport;

(iv) United States Route 385 to the border between the States of Nebraska and South Dakota; and

(v) United States Highway 26 from Scottsbluff to the border of the States of Nebraska and Wyoming.

(C) In the State of Wyoming, the Heartland Expressway Corridor shall generally follow United States Highway 26 from the border of the States of Nebraska and Wyoming to the termination at Interstate 25 at Interchange number 94.

(D) In the State of South Dakota, the Heartland Expressway Corridor shall generally follow—

(i) United States Route 385 from the border between the States of Nebraska and South Dakota to the intersection with State Highway 79; and

(ii) State Highway 79 from the intersection with United States Route 385 to Rapid City.

(15) Urban Highway Corridor along M–59 in Michigan.

(16) Economic Lifeline Corridor along I–15 and I–40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis, Indiana, through Evansville, Indiana, Memphis, Tennessee, Mississippi, Arkansas, Shreveport/Bossier, Louisiana, to Houston, Texas, and to the Lower Rio Grande Valley at the border between the United States and Mexico, as follows:

(A) In Michigan, the corridor shall be from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

(B) In Michigan and Illinois, the corridor shall be from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.

(C) In Tennessee, Mississippi, Arkansas, and Louisiana, the Corridor shall—

(i) follow the alignment generally identified in the Corridor 18 Special Issues Study Final Report; and

(ii) include a connection between the Corridor east of Wilmar, Arkansas, and west of Monticello, Arkansas, to Pine Bluff, Arkansas.

(D) In the Lower Rio Grande Valley, the Corridor shall—

(i) include United States Route 77 from the Rio Grande River to Interstate Route 37 at Corpus Christi, Texas, and then to Victoria, Texas, via U.S. Route 77;

(ii) include United States Route 281 from the Rio Grande River to Interstate Route 37 and then to Victoria, Texas, via United States Route 59;

(iii) include the Corpus Christi Northside Highway and Rail Corridor from the existing intersection of United States Route 77 and Interstate Route 37 to United States Route 181, including FM511 from United States Route 77 to the Port of Brownsville; and

(iv) include Texas State Highway 44 from United States Route 59 at Freer, Texas, to Texas State Highway 358.

(E) In Kentucky, the corridor shall utilize the existing Purchase Parkway from the Tennessee State line to Interstate 24, follow Interstate Route 24 to the Wendell H. Ford Western Kentucky Parkway, then utilize the existing Wendell H. Ford Western Kentucky Parkway and Edward T. Breathitt (Pennyrile) Parkway to Henderson.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of Interstate Route 80.

(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota, including I–29 between Kansas City and the Canadian border and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I–135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Salina, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I–29 in Sioux City, Iowa.

(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.

(26) The CANAMEX Corridor from Nogales, Arizona, through Las Vegas, Nevada, to Salt Lake City, Utah, to Idaho Falls, Idaho, to Montana, to the Canadian Border as follows:

(A) In the State of Arizona, the CANAMEX Corridor shall generally follow—

(i) I–19 from Nogales to Tucson;

(ii) I–10 from Tucson to Phoenix; and

(iii) United States Route 93 in the vicinity of Phoenix to the Nevada Border.

(B) In the State of Nevada, the CANAMEX Corridor shall follow—

(i) United States Route 93 from the Arizona Border to Las Vegas; and

(ii) I–15 from Las Vegas to the Utah Border.

(C) From the Utah Border through Montana to the Canadian Border, the CANAMEX Corridor shall follow I–15.

(27) The Camino Real Corridor from El Paso, Texas, to Denver, Colorado, as follows:

(A) In the State of Texas, the Camino Real Corridor shall generally follow—

(i) arterials from the international ports of entry to I–10 in El Paso County; and

(ii) I–10 from El Paso County to the New Mexico border.

(B) In the State of New Mexico, the Camino Real Corridor shall generally follow—

(i) I–10 from the Texas Border to Las Cruces; and

(ii) I–25 from Las Cruces to the Colorado Border.

(C) In the State of Colorado, the Camino Real Corridor shall generally follow I–25 from the New Mexico border to Denver continuing to the Wyoming border.

(D) In the State of Wyoming, the Camino Real Corridor shall generally follow—

(i) I–25 north to join with I–90 at Buffalo; and

(ii) I–90 to the Montana border.

(E) In the State of Montana, the Camino Real Corridor shall generally follow—

(i) I–90 to Billings; and

(ii) Montana Route 3, United States Route 12, United States Route 191, United States Route 87, to I–15 at Great Falls; and

(iii) I–15 from Great Falls to the Canadian border.

(28) The Birmingham Northern Beltline beginning at I–59 in the vicinity of Trussville, Alabama, and traversing westwardly intersecting with United States Route 75, United States Route 79, and United States Route 31; continuing southwestwardly intersecting United States Route 78 and terminating at I–59 with the I–459 interchange.

(29) The Coalfields Expressway beginning at Beckley, West Virginia, to Pound, Virginia, generally following the corridor defined as State Routes 54, 97, 10, 16, and 83.

(30) Interstate Route 5 in the States of California, Oregon, and Washington, including California State Route 905 between Interstate Route 5 and the Otay Mesa Port of Entry.

(31) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania and West Virginia.

(32) The Wisconsin Development Corridor from the Iowa, Illinois, and Wisconsin border near Dubuque, Iowa, to the Upper Mississippi River Basin near Eau Claire, Wisconsin, as follows:

(A) United States Route 151 from the Iowa border to Fond du Lac via Madison, Wisconsin, then United States Route 41 from Fond du Lac to Marinette via Oshkosh, Appleton, and Green Bay, Wisconsin.

(B) State Route 29 from Green Bay to I–94 via Wausau, Chippewa Falls, and Eau Claire, Wisconsin.

(C) United States Route 10 from Appleton to Marshfield, Wisconsin.

(33) The Capital Gateway Corridor following United States Route 50 from the proposed intermodal transportation center connected to and including the I–395 corridor in Washington, D.C., to the intersection of United States Route 50 with Kenilworth Avenue and the Baltimore-Washington Parkway in Maryland.

(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.

(35) Everett-Tacoma FAST Corridor.

(36) New York and Pennsylvania State Route 17 from Harriman, New York, to its intersection with I–90 in Pennsylvania.

(37) United States Route 90 from I–49 in Lafayette, Louisiana, to I–10 in New Orleans.

(38)(A) The Ports-to-Plains Corridor from Laredo, Texas, via I–27 to Denver, Colorado, shall include:

(i) In the State of Texas the Ports-to-Plains Corridor shall generally follow—

(I) I–35 from Laredo to United States Route 83 at Exit 18;

(II) United States Route 83 from Exit 18 to Carrizo Springs;

(III) United States Route 277 from Carrizo Springs to San Angelo;

(IV) United States Route 87 from San Angelo to Sterling City;

(V) From Sterling City to Lamesa, the Corridor shall follow United States Route 87 and, the Corridor shall also follow Texas Route 158 from Sterling City to I–20, then via I–20 West to Texas Route 349 and, Texas Route 349 from Midland to Lamesa;

(VI) United States Route 87 from Lamesa to Lubbock;

(VII) I–27 from Lubbock to Amarillo;

(VIII) United States Route 287 from Amarillo to Dumas; and

(IX) United States Route 287 from Dumas to the border between the States of Texas and Oklahoma, and also United States Route 87 from Dumas to the border between the States of Texas and New Mexico.

(ii) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow United States Route 287 from

the border between the States of Texas and Oklahoma to the border between the States of Oklahoma and Colorado.

(iii) In the State of Colorado, the Ports-to-Plains Corridor shall generally follow—

(I) United States Route 287 from the border between the States of Oklahoma and Colorado to Limon; and

(II) Interstate Route 70 from Limon to Denver.

(iv) In the State of New Mexico, the Ports-to-Plains Corridor shall generally follow United States Route 87 from the border between the States of Texas and New Mexico to Raton.

(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i) shall take effect only if the Texas Transportation Commission has not designated the Ports-to-Plains Corridor in Texas by June 30, 2001.

(39) United States Route 63 from Marked Tree, Arkansas, to I–55.

(40) The Greensboro Corridor from Danville, Virginia, to Greensboro, North Carolina, along United States Route 29.

(41) The Falls-to-Falls Corridor—United States Route 53 from International Falls on the Minnesota/Canada border to Chippewa Falls, Wisconsin.

(42) The portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi.

(43) The United States Route 95 Corridor from the Canadian border at Eastport, Idaho, to the Oregon State border.

(44) The Louisiana Highway 1 corridor from Grand Isle, Louisiana, along Louisiana Highway 1, to the intersection with United States Route 90.

(45) The United States Route 78 Corridor from Memphis, Tennessee, to Corridor X of the Appalachian development highway system near Fulton, Mississippi, and Corridor X of the Appalachian development highway system extending from near Fulton, Mississippi, to near Birmingham, Alabama.

(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

(47) Interstate Route 87 from the Quebec border to New York City.

(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.

(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.

(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:

(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.

(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.

(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.

(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.

(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.

(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.

(57) United States Route 41 corridor between Interstate Route 94 via Interstate Route 894 and Highway 45 near Milwaukee and Interstate Route 43 near Green Bay in the State of Wisconsin.

(58) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, and north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.

(59) The Central North American Trade Corridor from the border between North Dakota and South Dakota, north on United States Route 83 through Bismark and Minot, North Dakota, to the international border with Canada.

(60) The Providence Beltline Corridor beginning at Interstate Route 95 in the vicinity of Hope Valley, Rhode Island,

traversing eastwardly intersecting and merging into Interstate Route 295, continuing northeastwardly along Interstate Route 95, and terminating at the Massachusetts border, and including the western bypass of Providence, Rhode Island, from Interstate Route 295 to the Massachusetts border.

(61) In the State of Missouri, the corridors consisting of the following highways:

(A) Interstate Route 70, from Interstate Route 29/35 to United States Route 61/Avenue of the Saints.

(B) Interstate Route 72/United States Route 36, from the intersection with Interstate Route 29 to United States Route 61/Avenue of the Saints.

(C) United States Route 67, from Interstate Route 55 to the Arkansas State line.

(D) United States Route 65, from United States Route 36/Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(E) United States Route 63, from United States Route 36 and the proposed Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

(F) United States Route 54, from the Kansas State line to United States Route 61/Avenue of the Saints.

(62) The Georgia Developmental Highway System Corridors identified in section 32–4–22 of the Official Code of Georgia, Annotated.

(63) The Liberty Corridor, a corridor in an area encompassing very critical and significant transportation infrastructure providing regional, national, and international access through the State of New Jersey, including Interstate Routes 95, 80, 287, and 78, United States Routes 1, 9, and 46, and State Routes 3 and 17, and portways and connecting infrastructure.

(64) The corridor in an area of passage in the State of New Jersey serving significant interstate and regional traffic, located near the cities of Camden, New Jersey, and Philadelphia, Pennsylvania, and including Interstate Route 295, State Route 42, United States Route 130, and Interstate Routes 76 and 676.

(65) The Interstate Route 95 Corridor beginning at the New York State line and continuing through Connecticut to the Rhode Island State line.

(66) The Interstate Route 91 Corridor from New Haven, Connecticut, to the Massachusetts State line.

(67) The Fairbanks-Yukon International Corridor consisting of the portion of the Alaska Highway from the international border with Canada to the Richardson Highway, and the Richardson Highway from its junction with the Alaska Highway to Fairbanks, Alaska.

(68) The Washoe County Corridor and the Intermountain West Corridor, which shall generally follow—

(A) for the Washoe County Corridor, along Interstate Route 580/United States Route 95/United States Route 95A from Reno, Nevada, to Las Vegas, Nevada; and

(B) for the Intermountain West Corridor, from the vicinity of Las Vegas, Nevada, north along United States Route 95 terminating at Interstate Route 80.

(69) The Cross Valley Connector connecting Interstate Route 5 and State Route 14, Santa Clarita Valley, California.

(70) The Economic Lifeline corridor, along Interstate Route 15 and Interstate Route 40, California, Arizona, and Nevada, including Interstate Route 215 South from near San Bernadino, California, to Riverside, California, and State Route 91 from Riverside, California, to the intersection with Interstate Route 15 near Corona, California.

(71) The High Desert Corridor/E–220 from Los Angeles, California, to Las Vegas, Nevada, via Palmdale and Victorville, California.

(72) The North-South corridor, along Interstate Route 49 North, from Kansas City, Missouri, to Shreveport, Louisiana.

(73) The Louisiana Highway corridor, along Louisiana Highway 1, from Grand Isle, Louisiana, to the intersection with United States Route 90.

(74) The portion of United States Route 90 from Interstate Route 49 in Lafayette, Louisiana, to Interstate Route 10 in New Orleans, Louisiana.

(75) The Louisiana 28 corridor from Fort Polk to Alexandria, Louisiana.

(76) The portion of Interstate Route 75 from Toledo, Ohio, to Cincinnati, Ohio.

(77) The portion of United States Route 24 from the Indiana/Ohio State line to Toledo, Ohio.

(78) The portion of Interstate Route 71 from Cincinnati, Ohio, to Cleveland, Ohio.

(79) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 to Interstate Route 80.

(80) The Intercounty Connector, a new east-west multimodal highway between Interstate Route 270 and Interstate Route 95/United States Route 1 in Montgomery and Prince George's Counties, Maryland.

(81) United States Route 117/Interstate Route 795 from United States Route 70 in Goldsboro, Wayne County, North Carolina, to Interstate Route 40 west of Faison, Sampson County, North Carolina.

(82) United States Route 70 from its intersection with Interstate Route 40 in Garner, Wake County, North Carolina, to the Port at Morehead City, Carteret County, North Carolina.

(83) The Sonoran Corridor along State Route 410 connecting Interstate Route 19 and Interstate Route 10 south of the Tucson International Airport.

(84) The Central Texas Corridor commencing at the logical terminus of Interstate Route 10, generally following portions of United States Route 190 eastward, passing in the vicinity Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of Texas Highway 63 at the Sabine River Bridge at Burrs Crossing.

(85) Interstate Route 81 in New York from its intersection with Interstate Route 86 to the United States-Canadian border.

(86) Interstate Route 70 from Denver, Colorado, to Salt Lake City, Utah.

(87) The Oregon 99W Newberg-Dundee Bypass Route between Newberg, Oregon, and Dayton, Oregon.

(88) Interstate Route 205 in Oregon from its intersection with Interstate Route 5 to the Columbia River.

(89) I–57 Corridor Extension as follows: In Arkansas, the corridor shall follow United States Route 67 in North Little Rock, Arkansas, from I–40 to United States Route 412, then continuing generally northeast to the State line, and in Missouri, the corridor shall continue generally north from the Arkansas State line to Poplar Bluff, Missouri, and then follow United States Route 60 to I–57.

(90) The Edward T. Breathitt Parkway from Interstate 24 to Interstate 69.

(91) The Wendell H. Ford (Western Kentucky) Parkway from the interchange with the William H. Natcher Parkway in Ohio County, Kentucky, west to the interchange of the Western Kentucky Parkway with the Edward T. Breathitt (Pennyrile) Parkway.

(92) The Louisiana Capital Region High Priority Corridor, which shall generally follow—

(A) Interstate 10, between its intersections with Interstate 12 and Louisiana Highway 415;

(B) Louisiana Highway 415, between its intersections with Interstate 10 and United States route 190;

(C) United States route 190, between its intersections with Louisiana Highway 415 and intersection with Interstate110;

(D) Interstate 110, between its intersections with United States route 190 and Interstate 10;

(E) Louisiana Highway 30, near St. Gabriel, LA and its intersection with Interstate 10;

(F) Louisiana Highway 1, near White Castle, LA and its intersection with Interstate 10; and

(G) A bridge connecting Louisiana Highway 1 with Louisiana Highway 30, south of the Interstate described in subparagraph (A).

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I–55 in the vicinity of Route A in Jefferson County, Missouri. A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois. A feasibility study may be conducted under this paragraph to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(5) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(A) IN GENERAL.—The portions of the routes referred to in subsection (c)(1), subsection (c)(3) (relating solely to the Kentucky Corridor), clauses (i), (ii), and (except with respect to Georgetown County) (iii) of subsection (c)(5)(B), subsection (c)(9), subsection (c)(13), subsection (c)(18), subsection (c)(20), subparagraphs (A) and (B)(i) of subsection (c)(26), subsection (c)(36), subsection (c)(37), subsection (c)(40), subsection (c)(42), subsection (c)(45), subsection (c)(54), subsection (c)(57), subsection (c)(68)(B), subsection (c)(81), subsection (c)(82), subsection (c)(83), subsection (c)(89), subsection (c)(90), and subsection (c)(91) that are not a part of the Interstate System are designated as future parts of the Interstate System. Any segment of such routes shall become a part of the Interstate System at such time as the Secretary determines that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP–21.

(B) INTERSTATE ROUTE 376.—

(i) DESIGNATION OF INTERSTATE ROUTE 376.—

(I) IN GENERAL.—The routes referred to in subsection (c)(79), except the portion of Pennsylvania Turnpike Route 60 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

(II) SIGNS.—The State of Pennsylvania shall have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60) and erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(79) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.

(C) ROUTES.—

(i) DESIGNATION.—The portion of the route referred to in subsection (c)(9) is designated as Interstate Route I–99. The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I–69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I–69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(D)(i) shall be designated as Interstate Route I–69 East, and the segment identified in subsection (c)(18)(D)(ii) shall be designated as Interstate Route I–69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I–69. The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86. The Louie B. Nunn Parkway corridor referred to in subsection (c)(3) shall be designated as Interstate Route 66. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(3) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 66. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provi-

sions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(3) for the Commonwealth, as segments of future Interstate Route 66. The Purchase Parkway corridor referred to in subsection (c)(18)(E) shall be designated as Interstate Route 69. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(18) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 69. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(18) for the Commonwealth, as segments of future Interstate Route 69. The route referred to in subsection (c)(45) is designated as Interstate Route I–22. The routes referred to in subparagraphs (A) and (B)(i) of subsection (c)(26) and in subsection (c)(68)(B) are designated as Interstate Route I–11. The route referred to in subsection (c)(84) is designated as Interstate Route I–14. The route referred to in subsection (c)(89) is designated as Interstate Route I–57. The route referred to in subsection (c)(90) is designated as Interstate Route I–169. The route referred to in subsection (c)(91) is designated as Interstate Route I–569.

(ii) RULEMAKING TO DETERMINE FUTURE INTERSTATE SIGN ERECTION CRITERIA.—The Secretary shall conduct a rulemaking to determine the appropriate criteria for the erection of signs for future routes on the Interstate System identified in subparagraph (A). Such rulemaking shall be undertaken in consultation with States and local officials and shall be completed not later than December 31, 1998.

(D) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as part of the Interstate System by this paragraph and the mileage of such segments shall be treated in the manner described in the last 2 sentences of section 139(a) of title 23, United States Code.

(E) USE OF FUNDS.—

(i) GENERAL RULE.—Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, may be used on a project to construct a portion of a route referred to in this paragraph to standards set forth in section 109(b) of such title if the State determines that the project for which the funds were originally apportioned is unreasonably delayed or no longer viable.

(ii) LIMITATION.—If funds apportioned under section 104(b)(5)(A) of title 23, United States Code, for completing a segment of the Interstate System are

used on a project pursuant to this subparagraph, no interstate construction funds may be made available, after the date of the enactment of this paragraph, for construction of such segment.

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
1.	Pennsylvania	For the segment described in item 6 of this table and up to $11,000,000 for upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I–80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72 and up to $1,500,000 from the State of Alabama's share of the project for modification of the Keller Memorial Bridge in Decatur, Alabama, to a pedestrian structure	25.4
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6
4.	Arkansas	For construction of Highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0
16.	Michigan	To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6
18.	Indiana	To construct a 4-lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)	59.2

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana, and up to $6,000,000 for surface transportation projects in Louisiana, including $4,500,000 for the I–10 and I–610 project in Jefferson Parish, Louisiana, in the corridor between the St. Charles Parish line and Tulane Avenue, $500,000 for noise analysis and safety abatement measures or barriers along the Lakeview section of I–610 in New Orleans, and $1,000,000 for 3 highway studies (including $250,000 for a study to widen United States Route 84/Louisiana Route 6 traversing north Louisiana, $250,000 for a study to widen Louisiana Route 42 from United States Route 61 to Louisiana Route 44 and extend to I–10 in East Ascension Parish, and $500,000 for a study to connect I–20 on both sides of the Ouachita River)	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I–66 Transamerica Highway Feasibility study	1.0
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Evansville, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

* * * * * * *

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(9) The States of South Dakota and Nebraska may, at their discretion, utilize funds allocated to them for the project described in section 1105(f)(17) of this Act to support the Ne-

braska/South Dakota feasibility study described in section 1105(f)(7) and may also utilize funds allocated for that study for the project described in section 1105(f)(17).

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

* * * * * * *

SAFETEA–LU TECHNICAL CORRECTIONS ACT OF 2008

* * * * * * *

[SECTION 117. BUY AMERICA.

[(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

[(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

[(1) that their application would be inconsistent with the public interest;

[(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

[(3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

[(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

[(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this Act that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

[(e) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

[(1) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

[(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

[(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that-

[(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

[(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement, the provisions of subsection (b) shall not apply to products produced in that foreign country.

[(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this Act.]

* * * * * * *

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" or "SAFETEA–LU".

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

TITLE I—FEDERAL-AID HIGHWAYS

* * * * * * *

Subtitle D—Highway Safety

* * * * * * *

[SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.

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

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

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

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

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

[(c) APPORTIONMENT OF FUNDS.—

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

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

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

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

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

istrative expenses of the Secretary in carrying out this subsection.

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

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

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

[(f) ELIGIBLE PROJECTS AND ACTIVITIES.—

[(1) INFRASTRUCTURE-RELATED PROJECTS.—

[(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

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

[(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

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

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

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

[(g) CLEARINGHOUSE.—

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

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

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

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

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

[(h) TASK FORCE.—

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

[(2) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under paragraph (1) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under paragraphs (1) and (2) of subsection (f).

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

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

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

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

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

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

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TITLE IV—MOTOR CARRIER SAFETY

* * * * * * *

Subtitle A—Commercial Motor Vehicle Safety

* * * * * * *

SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND DUTIES.—The Secretary shall establish in the Federal Motor Carrier Safety Administration a motor carrier safety advisory committee. The committee shall—

(1) provide advice and recommendations to the Administrator of the Federal Motor Carrier Safety Administration about needs, objectives, plans, approaches, content, and accomplishments of the motor carrier safety programs carried out by the Administration; and

(2) provide advice and recommendations to the Administrator on motor carrier safety regulations.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—

(1) IN GENERAL.—The committee shall be composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. The members shall include representatives of the motor carrier industry*, including small business motor carriers*, safety advocates, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the members of the advisory committee.

(2) CHAIRMAN.—The Administrator shall designate the chairman of the committee.

(3) PAY.—A member of the committee shall serve without pay; except that the Administrator may allow a member, when attending meetings of the committee or a subcommittee of the committee, expenses authorized under section 5703 of title 5, relating to per diem, travel, and transportation expenses.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) TERMINATION DATE.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee shall terminate on [September 30, 2013] *September 30, 2025*.

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MAP-21

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DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

* * * * * * *

SEC. 1123. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) EMERGENCY OR DISASTER.—The term "emergency or disaster" means damage to a tribal transportation facility that—

(A) renders the tribal transportation facility impassable or unusable;

(B) is caused by—

(i) a natural disaster over a widespread area; or

(ii) a catastrophic failure from an external cause; and

(C) would be eligible under the emergency relief program under section 125 of title 23, United States Code, but does not meet the funding thresholds [required by that section] *required under such program*.

(2) LIST.—The term "list" means the funding priority list developed under subsection (c)(5).

(3) PROGRAM.—The term "program" means the Tribal High Priority Projects program established under subsection (b)(1).

(4) PROJECT.—The term "project" means a project provided funds under the program.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall [use amounts made available under subsection (h) to] carry out a Tribal High Priority Projects program under which funds shall be provided to eligible applicants in accordance with this section.

(2) ELIGIBLE APPLICANTS.—Applicants eligible for program funds under this section include—

(A) an Indian tribe whose annual allocation of funding under section 202 of title 23, United States Code, is insufficient to complete the highest priority project of the Indian tribe;

(B) a governmental subdivision of an Indian tribe—

(i) that is authorized to administer the funding of the Indian tribe under section 202 of title 23, United States Code; and

(ii) for which the annual allocation under that section is insufficient to complete the highest priority project of the Indian tribe; or

(C) any Indian tribe that has an emergency or disaster with respect to a transportation facility included on the

national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code.

(c) PROJECT APPLICATIONS; FUNDING.—

(1) IN GENERAL.—To apply for funds under this section, an eligible applicant shall submit to the Department of the Interior or the Department an application that includes—

(A) project scope of work, including deliverables, budget, and timeline;

(B) the amount of funds requested;

(C) project information addressing—

(i) the ranking criteria identified in paragraph (3); or

(ii) the nature of the emergency or disaster;

(D) documentation that the project meets the definition of a tribal transportation facility and is included in the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code;

(E) documentation of official tribal action requesting the project;

(F) documentation from the Indian tribe providing authority for the Secretary of the Interior to place the project on a transportation improvement program if the project is selected and approved; and

(G) any other information the Secretary of the Interior or Secretary considers appropriate to make a determination.

(2) LIMITATION ON APPLICATIONS.—An applicant for funds under the program may only have 1 application for assistance under this section pending at any 1 time, including any emergency or disaster application.

(3) APPLICATION RANKING.—

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall determine the eligibility of, and fund, program applications, subject to the availability of funds.

(B) RANKING CRITERIA.—The project ranking criteria for applications under this section shall include—

(i) the existence of safety hazards with documented fatality and injury accidents;

(ii) the number of years since the Indian tribe last completed a construction project funded by section 202 of title 23, United States Code;

(iii) the readiness of the Indian tribe to proceed to construction or bridge design need;

(iv) the percentage of project costs matched by funds that are not provided under section 202 of title 23, United States Code, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches);

(v) the amount of funds requested, with requests for lesser amounts given greater priority;

(vi) the challenges caused by geographic isolation; and

(vii) all weather access for employment, commerce, health, safety, educational resources, or housing.

(4) PROJECT SCORING MATRIX.—The project scoring matrix established in the appendix to part 170 of title 25, Code of Regulations (as in effect on the date of enactment of this Act) shall be used to rank all applications accepted under this section.

(5) FUNDING PRIORITY LIST.—

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall jointly produce a funding priority list that ranks the projects approved for funding under the program.

(B) LIMITATION.—The number of projects on the list shall be limited by the amount of funding made available.

(6) TIMELINE.—The Secretary of the Interior and the Secretary shall—

(A) require applications for funding no sooner than 60 days after funding is made available pursuant to subsection (a);

(B) notify all applicants and Regions in writing of acceptance of applications;

(C) rank all accepted applications in accordance with the project scoring matrix, develop the funding priority list, and return unaccepted applications to the applicant with an explanation of deficiencies;

(D) notify all accepted applicants of the projects included on the funding priority list no later than 180 days after the application deadline has passed pursuant to subparagraph (A); and

(E) distribute funds to successful applicants.

(d) EMERGENCY OR DISASTER PROJECT APPLICATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (c)(6), an eligible applicant may submit an emergency or disaster project application at any time during the fiscal year.

(2) CONSIDERATION AS PRIORITY.—The Secretary*, in consultation with the Secretary of the Interior,* shall—

(A) consider project applications submitted under paragraph (1) to be a priority; and

(B) fund the project applications in accordance with paragraph (3).

(3) FUNDING.—

(A) IN GENERAL.—If an eligible applicant submits an application for a project under this subsection before the issuance of the list under subsection (c)(5) and the project is determined to be eligible for program funds, the Secretary ⟦of the Interior⟧ shall provide funding for the project before providing funding for other approved projects on the list.

(B) SUBMISSION AFTER ISSUANCE OF LIST.—If an eligible applicant submits an application under this subsection after the issuance of the list under subsection (c)(5) and the distribution of program funds in accordance with the list, the Secretary ⟦of the Interior⟧ shall provide funding for the project on the date on which unobligated funds pro-

vided to projects on the list are returned to the Department [of the Interior].

(C) EFFECT ON OTHER PROJECTS.—If the Secretary [of the Interior] uses funding previously designated for a project on the list to fund an emergency or disaster project under this subsection, the project on the list that did not receive funding as a result of the redesignation of funds shall move to the top of the list the following year.

(4) EMERGENCY OR DISASTER PROJECT COST.—The cost of a project submitted as an emergency or disaster under this subsection shall be at least 10 percent of the distribution of funds of the Indian tribe under section 202(b) of title 23, United States Code.

(e) LIMITATION ON USE OF FUNDS.—Program funds shall not be used for—

(1) transportation planning;

(2) research;

(3) routine maintenance activities;

(4) structures and erosion protection unrelated to transportation and roadways;

(5) general reservation planning not involving transportation;

(6) landscaping and irrigation systems not involving transportation programs and projects;

(7) work performed on projects that are not included on a transportation improvement program approved by the Federal Highway Administration, unless otherwise authorized by the Secretary of the Interior and the Secretary;

(8) the purchase of equipment unless otherwise authorized by Federal law; or

(9) the condemnation of land for recreational trails.

(f) LIMITATION ON PROJECT AMOUNTS.—Project funding shall be limited to a maximum of [$1,000,000] *$5,000,000* per application, except that funding for disaster or emergency projects shall also be limited to the estimated cost of repairing damage to the tribal transportation facility.

(g) COST ESTIMATE CERTIFICATION.—All cost estimates prepared for a project shall be required to be submitted by the applicant to the Secretary of the Interior [and the Secretary] *or the Secretary* for certification and approval.

[(h) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There is authorized to be appropriated $30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2013 through 2015 and $5,327,869 out of the general fund of the Treasury to carry out the program for the period beginning on October 1, 2015, and ending on December 4, 2015.

[(2) ADMINISTRATION.—The funds made available under paragraph (1) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

[(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

[(B) the Federal share of the cost of a project shall be 100 percent.]

(h) ADMINISTRATION.—The funds made available to carry out this section shall be administered in the same manner as funds made available for the Tribal transportation program under section 202 of title 23, United States Code.

* * * * * * *

Subtitle D—Highway Safety

SEC. 1401. JASON'S LAW.

(a) IN GENERAL.—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

(b) ELIGIBLE PROJECTS.—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

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

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

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

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

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

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

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

(c) SURVEY AND COMPARATIVE ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with relevant State motor carrier safety personnel *and private providers of commercial motor vehicle parking*, shall conduct a survey of each State—

(A) to evaluate [the capability of the State to provide] *the availability of* adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation;

(B) to assess the volume of commercial motor vehicle traffic in the State; and

(C) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State.

(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

(d) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State may establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery-powered or natural gas-fueled trucks or other motor vehicles at any parking facility funded or authorized under this Act or title 23, United States Code.

(2) EXCEPTION.—Electric vehicle battery charging stations or natural gas vehicle refueling stations may not be established or supported under paragraph (1) if commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) FUNDS.—Charging or refueling stations described in paragraph (1) shall be eligible for the same funds as are available for the parking facilities in which the stations are located.

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

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Subtitle E—Miscellaneous

* * * * * * *

SEC. 1519. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.

(a) CONSOLIDATION OF PROGRAMS.—For each of [fiscal years 2016 through 2020] *fiscal years 2022 through 2025*, before making an apportionment under section 104(b)(3) of title 23, United States Code, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 of such title for the fiscal year, [$3,500,000] *$4,000,000*—

(1) to carry out safety-related activities, including—

(A) to carry out the operation lifesaver program—

(i) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(ii) to improve driver performance at railway-highway crossings; and

(B) to provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA-LU (23 U.S.C. 401 note; 119 Stat. 1232); and

(2) to operate authorized safety-related clearinghouses, including—

(A) the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625); and

(B) a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1234).

(b) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out under subsection (a) shall be 100 percent.

[(b)] *(c)* REPEALS.—

(1) TITLE 23.—

(A) IN GENERAL.—Sections 105, 110, 117, 124, 151, 155, 157, 160, 212, 216, 303, and 309 of title 23, United States Code, are repealed.

(B) SET ASIDES.—Section 118 of title 23, United States Code, is amended—

(i) by striking subsection (c); and

(ii) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(2) SAFETEA-LU.—Sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958 of SAFETEA-LU (Public Law 109-59) are repealed.

(3) ADDITIONAL.—Section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 121 Stat. 1763) is repealed.

[(c)] *(d)* CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—

(A) CHAPTER 1.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 151, 155, 157, and 160.

(B) CHAPTER 2.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the items relating to sections 212 and 216.

(C) CHAPTER 3.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 303 and 309.

(2) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of SAFETEA-LU (Public Law 109-59; 119 Stat. 1144) is amended by striking the items relating to sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958.

(3) SECTION 109.—Section 109(q) of title 23, United States Code, is amended by striking "in accordance with section 303 or".

(4) SECTION 118.—Section 118(b) of title 23, United States Code, is amended—

(A) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(B) by striking "(other than for Interstate construction)".

(5) SECTION 130.—Section 130 of title 23, United States Code, is amended—

(A) in subsection (e) by striking "section 104(b)(5)" and inserting "section 104(b)(3)";

(B) in subsection (f)(1) by inserting "as in effect on the day before the date of enactment of the MAP-21" after "section 104(b)(3)(A)"; and

(C) in subsection (l) by striking paragraphs (3) and (4).

(6) SECTION 131.—Section 131(m) of title 23, United States Code, is amended by striking "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State" and inserting "A State".

(7) SECTION 133.—Paragraph (13) of section 133(b) of title 23, United States Code (as amended by section 1108(a)(3)), is amended by striking "under section 303".

(8) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking "motor vehicles (other than on rail)" and inserting "buses";

(II) by striking "(hereafter in this section referred to as'buses')";

(III) by striking "Federal-aid systems" and inserting "Federal-aid highways"; and

(IV) by striking "Federal-aid system" and inserting "Federal-aid highway"; and

(ii) in paragraph (2)—

(I) by striking "as a project on the the surface transportation program for"; and

(II) by striking "section 104(b)(3)" and inserting "section 104(b)(2)";

(B) in subsection (b) by striking "104(b)(4)" and inserting "104(b)(1)";

(C) in subsection (c)—

(i) by striking "system" in each place it appears and inserting "highway"; and

(ii) by striking "highway facilities" and inserting "highways eligible under the program that is the source of the funds";

(D) in subsection (e)(2) by striking "Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects author-

ized by subsection (a)(2) of this section and such projects" and inserting "Projects authorized by subsection (a)(2)"; and

(E) in subsection (f) by striking "exits" and inserting "exists".

(9) SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking "section 117 of this title,".

(10) SECTION 218.—Section 218 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking the first two sentences;

(ii) in the third sentence—

(I) by striking ", in addition to such funds,"; and

(II) by striking "such highway or";

(iii) by striking the fourth sentence and fifth sentences;

(B) by striking subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(11) SECTION 610.—Section 610(d)(1)(B) of title 23, United States Code, is amended by striking "under section 105".

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DIVISION B—PUBLIC TRANSPORTATION

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SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.

[(a) AMENDMENT.—] Section 5303 of title 49, United States Code, is amended to read as follows:

"SEC. 5303. METROPOLITAN TRANSPORTATION PLANNING.

"(a) POLICY.—It is in the national interest—

"(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

"(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

"(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

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

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

"(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

"(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term 'regional transportation planning organization' means a policy board of an organization established as the result of a designation under section 5304(l).

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

"(7) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

"(c) GENERAL REQUIREMENTS.—

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

"(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

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

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

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

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

"(5) REDESIGNATION PROCEDURES.—

"(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

"(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

"(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (d)(1);

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

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

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(f) COORDINATION IN MULTISTATE AREAS.—

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

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

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

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

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

"(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(h) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and for freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) PERFORMANCE-BASED APPROACH.—

"(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

"(B) PERFORMANCE TARGETS.—

"(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

"(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

"(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

"(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

"(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

"(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance

measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

"(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

"(B) FREQUENCY.—

"(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

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

"(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

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

"(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

"(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

"(i) IN GENERAL.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

"(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall

consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

"(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

"(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

"(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

"(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

"(D) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(E) FINANCIAL PLAN.—

"(i) IN GENERAL.—A financial plan that—

"(I) demonstrates how the adopted transportation plan can be implemented;

"(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

"(III) recommends any additional financing strategies for needed projects and programs.

"(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the

performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

"(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

"(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) OPTIONAL SCENARIO DEVELOPMENT.—

"(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

"(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

"(i) potential regional investment strategies for the planning horizon;

"(ii) assumed distribution of population and employment;

"(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

"(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

"(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

"(vi) estimated costs and potential revenues available to support each scenario.

"(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

"(5) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protec-

tion, conservation, and historic preservation concerning the development of a long-range transportation plan.

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

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

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

"(6) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

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

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

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

"(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

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

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

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

"(j) METROPOLITAN TIP.—

"(1) DEVELOPMENT.—

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

"(i) contains projects consistent with the current metropolitan transportation plan;

"(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

"(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

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

"(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The TIP shall be—

"(i) updated at least once every 4 years; and

"(ii) approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—

"(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

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

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

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

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

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

"(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

"(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated

effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

"(3) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

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

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

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

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

"(5) SELECTION OF PROJECTS.—

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

"(i) by—

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

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

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

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included

in the approved TIP in place of another project in the program.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

"(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

"(7) PUBLICATION.—

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

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

"(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

"(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) IDENTIFICATION AND DESIGNATION.—

"(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

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

"(3) CONGESTION MANAGEMENT PROCESS.—

"(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the

use of travel demand reduction and operational management strategies.

"(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

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

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

"(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection

"(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

"(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

"(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

"(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

"(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area of less than 200,000 and their ability to carry out the requirements of this section.

"(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

"(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pur-

suant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

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

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

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

[(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

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

[(A) ELIGIBLE PROJECT.—The term "eligible project" means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

[(B) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

[(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

[(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

[(B) facilitate multimodal connectivity and accessibility;

[(C) increase access to transit hubs for pedestrian and bicycle traffic;

[(D) enable mixed-use development;

[(E) identify infrastructure needs associated with the eligible project; and

[(F) include private sector participation.

[(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this sub-

section shall submit to the Secretary an application that contains, at a minimum—

[(A) identification of an eligible project;

[(B) a schedule and process for the development of a comprehensive plan;

[(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

[(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

[(E) identification of—

[(i) partners;

[(ii) availability of and authority for funding; and

[(iii) potential State, local or other impediments to the implementation of the comprehensive plan.]

* * * * * * *

PROTECT ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003" or "PROTECT Act".

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

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TITLE III—PUBLIC OUTREACH

Subtitle A—AMBER Alert

* * * * * * *

SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS *AND MAJOR TRANSPORTATION ROUTES* FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation *(referred to in this section as the "Secretary")* shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways *and at airports, maritime ports, border crossing areas and checkpoints, and ports of exit from the United States* for alerts and other information for the recovery of abducted children.

(b) DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the development of a State program for the use of changeable message signs or [other motorist information systems to notify motorists] *other information systems to notify motorists, aircraft passengers, ship passengers, and travelers* about abductions of children. The State program shall provide for the planning, coordination, and design of systems, protocols, and message sets that support the coordination and communication necessary to notify motorists*, aircraft passengers, ship passengers, and travelers* about abductions of children.

(2) ELIGIBLE ACTIVITIES.—A grant under this subsection may be used by a State for the following purposes:

(A) To develop general policies and procedures to guide the use of changeable message signs or [other motorist information systems to notify motorists] *other information systems to notify motorists, aircraft passengers, ship passengers, and travelers* about abductions of children.

(B) To develop guidance or policies on the content and format of alert messages to be conveyed on changeable message signs or other traveler information systems.

(C) To coordinate State, regional, and local plans for the use of changeable message signs or other transportation related issues.

(D) To plan secure and reliable communications systems and protocols among public safety and transportation agencies or modify existing communications systems to support the notification of motorists*, aircraft passengers, ship passengers, and travelers* about abductions of children.

(E) To plan and design improved systems for communicating with motorists*, aircraft passengers, ship passengers, and travelers*, including the capability for issuing wide area alerts to motorists*, aircraft passengers, ship passengers, and travelers*.

(F) To plan systems and protocols to facilitate the efficient issuance of child abduction notification and other key information to motorists*, aircraft passengers, ship passengers, and travelers* during off-hours.

(G) To provide training and guidance to transportation authorities to facilitate appropriate use of changeable message signs and other traveler information systems for the notification of motorists*, aircraft passengers, ship passengers, and travelers* about abductions of children.

(c) IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the implementation of a program for the use of changeable message signs or [other motorist information systems to notify motorists] *other information systems to notify motorists, aircraft passengers, ship passengers, and travelers* about abductions of children. A State shall be eligible for a grant under this subsection if the Secretary deter-

mines that the State has developed a State program in accordance with subsection (b).

(2) ELIGIBLE ACTIVITIES.—A grant under this subsection may be used by a State to support the implementation of systems that use changeable message signs or [other motorist information systems to notify motorists] *other information systems to notify motorists, aircraft passengers, ship passengers, and travelers* about abductions of children. Such support may include the purchase and installation of changeable message signs or [other motorist information systems to notify motorists] *other information systems to notify motorists, aircraft passengers, ship passengers, and travelers* about abductions of children.

[(d) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under this section may not exceed 80 percent.]

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of any activities funded by a grant under this section may not exceed 80 percent.

(2) WAIVER.—If the Secretary determines that American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States is unable to comply with the requirement under paragraph (1), the Secretary shall waive such requirement.

(e) DISTRIBUTION OF GRANT AMOUNTS.—The Secretary shall, to the maximum extent practicable, distribute grants under this section equally among the States that apply for a grant under this section within the time period prescribed by the Secretary.

(f) ADMINISTRATION.—The Secretary shall prescribe requirements, including application requirements, for the receipt of grants under this section.

(g) DEFINITION.—[In this section] *In this subtitle*, the term "State" means any of the 50 States, the District of Columbia, [or Puerto Rico] *American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, the Virgin Islands of the United States, and any other territory of the United States*.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for fiscal year 2004. Such amounts shall remain available until expended.

(i) STUDY OF STATE PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study to examine State barriers to the adoption and implementation of State programs for the use of communications systems along highways for alerts and other information for the recovery of abducted children.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a re-

port on the results of the study, together with any recommendations the Secretary determines appropriate.

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PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008

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DIVISION B—AMTRAK

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TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

* * * * * * *

SEC. 601. AUTHORIZATION FOR CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.

(a) AUTHORIZATION.—

(1) IN GENERAL. —Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17 of the National Capital Transportation Act of 1969 (sec. 9–1101.01 et seq., D.C. Official Code), for the purpose of financing in part the capital and preventive maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

(2) DEFINITIONS.—In this section—

(A) the term "Transit Authority" means the Washington Metropolitan Area Transit Authority established under Article III of the Compact; and

(B) the term "Compact" means the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; Public Law 89–774).

(b) USE OF FUNDS.—[The Federal] *Except as provided in subsection (f)(2), the Federal* grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues

from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(3) Such Federal grants may be used only for the maintenance and upkeep of the systems of the Transit Authority as of the date of the enactment of this Act and may not be used to increase the mileage of the rail system.

(c) APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

[(d) AMENDMENTS TO COMPACT.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect:

[(1)(A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

[(B) For purposes of this paragraph, the term "dedicated funding source" means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this division for payments to the Transit Authority.

[(2) An amendment establishing an Office of the Inspector General of the Transit Authority.

[(3) An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.

[(e) ACCESS TO WIRELESS SERVICE IN METRORAIL SYSTEM.—

[(1) REQUIRING TRANSIT AUTHORITY TO PROVIDE ACCESS TO SERVICE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that customers of the rail service of the Transit Authority have access within the rail system to services provided by any licensed wireless provider that notifies the Transit Authority (in accordance with such procedures as the Transit Authority may adopt) of its intent to offer

service to the public, in accordance with the following timetable:

[(A) Not later than 1 year after the date of the enactment of this Act, in the 20 underground rail station platforms with the highest volume of passenger traffic.

[(B) Not later than 4 years after such date, throughout the rail system.

[(2) ACCESS OF WIRELESS PROVIDERS TO SYSTEM FOR UPGRADES AND MAINTENANCE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that each licensed wireless provider who provides service to the public within the rail system pursuant to paragraph (1) has access to the system on an ongoing basis (subject to such restrictions as the Transit Authority may impose to ensure that such access will not unduly impact rail operations or threaten the safety of customers or employees of the rail system) to carry out emergency repairs, routine maintenance, and upgrades to the service.

[(3) PERMITTING REASONABLE AND CUSTOMARY CHARGES.—Nothing in this subsection may be construed to prohibit the Transit Authority from requiring a licensed wireless provider to pay reasonable and customary charges for access granted under this subsection.

[(4) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and each of the 3 years thereafter, the Transit Authority shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.

[(5) DEFINITION.—In this subsection, the term "licensed wireless provider" means any provider of wireless services who is operating pursuant to a Federal license to offer such services to the public for profit.

[(f) AMOUNT.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section an aggregate amount not to exceed $1,500,000,000 to be available in increments over 10 fiscal years beginning in fiscal year 2009, or until expended.]

(d) REQUIRED BOARD APPROVAL.—No amounts may be provided to the Transit Authority under this section until the Transit Authority certifies to the Secretary of Transportation that—

(1) a board resolution has passed on or before July 1, 2021, and is in effect for the period of July 1, 2022 through June 30, 2031, that—

(A) establishes an independent budget authority for the Office of Inspector General of the Transit Authority;

(B) establishes an independent procurement authority for the Office of Inspector General of the Transit Authority;

(C) establishes an independent hiring authority for the Office of Inspector General of the Transit Authority;

(D) ensures the Inspector General of the Transit Authority can obtain legal advice from a counsel reporting directly to the Inspector General;

(E) requires the Inspector General of the Transit Authority to submit recommendations for corrective action to the General Manager and the Board of Directors of the Transit Authority;

(F) requires the Inspector General of the Transit Authority to publish any recommendation described in subparagraph (E) on the website of the Office of Inspector General of the Transit Authority, except that the Inspector General may redact personally identifiable information and information that, in the determination of the Inspector General, would pose a security risk to the systems of the Transit Authority;

(G) requires the Board of Directors of the Transit Authority to provide written notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 30 days before the Board of Directors removes the Inspector General of the Transit Authority, which shall include the reasons for removal and supporting documentation; and

(H) prohibits the Board of Directors from removing the Inspector General of the Transit Authority unless the Board of Directors has provided a 30 day written notification as described in subparagraph (G) that documents—

(i) a permanent incapacity;

(ii) a neglect of duty;

(iii) malfeasance;

(iv) a conviction of a felony or conduct involving moral turpitude;

(v) a knowing violation of a law or regulation;

(vi) gross mismanagement;

(vii) a gross waste of funds;

(viii) an abuse of authority; or

(ix) inefficiency; and

(2) the Code of Ethics for Members of the WMATA Board of Directors passed on September 26, 2019, remains in effect, or the Inspector General of the Transit Authority has concurred with any modifications to the Code of Ethics by the Board.

(e) AUTHORIZATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section—

(A) for fiscal year 2021, $150,000,000;

(B) for fiscal year 2022, $155,000,000;

(C) for fiscal year 2023, $160,000,000;

(D) for fiscal year 2024, $165,000,000;

(E) for fiscal year 2025, $170,000,000;

(F) for fiscal year 2026, $175,000,000;

(G) for fiscal year 2027, $180,000,000;

(H) for fiscal year 2028, $185,000,000;

(I) for fiscal year 2029, $190,000,000; and

(J) for fiscal year 2030, $200,000,000.

(2) SET ASIDE FOR OFFICE OF INSPECTOR GENERAL OF TRANSIT AUTHORITY.—From the amounts in paragraph (1), the Transit Authority shall provide at least 7 percent for each fiscal year to the Office of Inspector General of the Transit Authority to carry out independent and objective audits, investigations, and reviews of Transit Authority programs and operations to promote economy, efficiency, and effectiveness, and to prevent and detect fraud, waste, and abuse in such programs and operations.

[(g)**]** *(f)* AVAILABILITY.—Amounts appropriated pursuant to the authorization under this section shall remain available until expended.

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REAL ID ACT OF 2005

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SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, **[**a driver's license or identification card**]** *a physical or electronic driver's license or identification card* issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status;

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or

(x) is a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [Pub. L. 104–208, div. C, 8 U.S.C. 1324a note] (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

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TITLE 18, UNITED STATES CODE

PART I—CRIMES

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CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * * * *

§ 1028. Fraud and related activity in connection with identification documents, authentication features, and information

(a) Whoever, in a circumstance described in subsection (c) of this section—

(1) knowingly and without lawful authority produces an identification document, authentication feature, or a false identification document;

(2) knowingly transfers an identification document, authentication feature, or a false identification document knowing that such document or feature was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor), authentication feature, or a false identification document, with the intent such document or feature be used to defraud the United States;

(5) knowingly produces, transfers, or possesses a document-making implement or authentication feature with the intent such document-making implement or authentication feature will be used in the production of a false identification document or another document-making implement or authentication feature which will be so used;

(6) knowingly possesses an identification document or authentication feature that is or appears to be an identification document or authentication feature of the United States or a sponsoring entity of an event designated as a special event of national significance which is stolen or produced without lawful authority knowing that such document or feature was stolen or produced without such authority;

(7) knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; or

(8) knowingly traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

(1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is—

(A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be—

(i) an identification document or authentication feature issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents, authentication features, or false identification documents;

(C) an offense under paragraph (5) of such subsection; or

(D) an offense under paragraph (7) of such subsection that involves the transfer, possession, or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;

(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 5 years, or both, if the offense is—

(A) any other production, transfer, or use of a means of identification, an identification document,, authentication feature, or a false identification document; or

(B) an offense under paragraph (3) or (7) of such subsection;

(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

(C) after a prior conviction under this section becomes final;

(4) a fine under this title or imprisonment for not more than 30 years, or both, if the offense is committed to facilitate an act of domestic terrorism (as defined under section 2331(5) of this title) or an act of international terrorism (as defined in section 2331(1) of this title);

(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and

(6) a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that—

(1) the identification document, authentication feature, or false identification document is or appears to be issued by or under the authority of the United States or a sponsoring entity of an event designated as a special event of national significance or the document-making implement is designed or suited for making such an identification document, authentication feature, or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) either—

(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce, including the transfer of a document by electronic means; or

(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) In this section and section 1028A—

(1) the term "authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified;

(2) the term "document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(3) the term "identification document" means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a sponsoring entity of an event designated as a special event of national significance, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(4) the term "false identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals that—

(A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(B) appears to be issued by or under the authority of the United States Government, a State, a political subdivision of a State, a sponsoring entity of an event designated by the President as a special event of national significance, a foreign government, a political subdivision of a foreign government, or an international governmental or quasi-governmental organization;

(5) the term "false authentication feature" means an authentication feature that—

(A) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or

(C) appears to be genuine, but is not;

(6) the term "issuing authority"—

(A) means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and

(B) includes the United States Government, a State, a political subdivision of a State, a sponsoring entity of an event designated by the President as a special event of national significance, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization;

(7) the term "means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

(A) name, social security number, date of birth, official State or [government issued driver's license] *government issued physical or electronic driver's license* or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(8) the term "personal identification card" means an identification document issued by a State or local government solely for the purpose of identification;

(9) the term "produce" includes alter, authenticate, or assemble;

(10) the term "transfer" includes selecting an identification document, false identification document, or document-making

implement and placing or directing the placement of such identification document, false identification document, or document-making implement on an online location where it is available to others;

(11) the term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States; and

(12) the term "traffic" means—

(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(g) FORFEITURE PROCEDURES.—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(h) FORFEITURE; DISPOSITION.—In the circumstance in which any person is convicted of a violation of subsection (a), the court shall order, in addition to the penalty prescribed, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, document-making implements, or means of identification.

(i) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

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FAA MODERNIZATION AND REFORM ACT OF 2012

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "FAA Modernization and Reform Act of 2012".

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

* * * * * * *

TITLE VIII—MISCELLANEOUS

* * * * * * *

[SEC. 828. AIR TRANSPORTATION OF LITHIUM CELLS AND BATTERIES.

[(a) IN GENERAL.—The Secretary of Transportation, including a designee of the Secretary, may not issue or enforce any regulation or other requirement regarding the transportation by aircraft of lithium metal cells or batteries or lithium ion cells or batteries, whether transported separately or packed with or contained in equipment, if the requirement is more stringent than the requirements of the ICAO Technical Instructions.

[(b) EXCEPTIONS.—

[(1) PASSENGER CARRYING AIRCRAFT.—Notwithstanding subsection (a), the Secretary may enforce the prohibition on transporting primary (non-rechargeable) lithium batteries and cells aboard passenger carrying aircraft set forth in special provision A100 under section 172.102(c)(2) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

[(2) CREDIBLE REPORTS.—Notwithstanding subsection (a), if the Secretary obtains a credible report with respect to a safety incident from a national or international governmental regulatory or investigating body that demonstrates that the presence of lithium metal cells or batteries or lithium ion cells or batteries on an aircraft, whether transported separately or packed with or contained in equipment, in accordance with the requirements of the ICAO Technical Instructions, has substantially contributed to the initiation or propagation of an onboard fire, the Secretary—

[(A) may issue and enforce an emergency regulation, more stringent than the requirements of the ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if that regulation—

[(i) addresses solely deficiencies referenced in the report; and

[(ii) is effective for not more than 1 year; and

[(B) may adopt and enforce a permanent regulation, more stringent than the requirements of the ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if—

[(i) the Secretary bases the regulation upon substantial credible evidence that the otherwise permissible presence of such cells or batteries would substantially contribute to the initiation or propagation of an onboard fire;

[(ii) the regulation addresses solely the deficiencies in existing regulations; and

[(iii) the regulation imposes the least disruptive and least expensive variation from existing requirements while adequately addressing identified deficiencies.

[(c) ICAO TECHNICAL INSTRUCTIONS DEFINED.—In this section, the term "ICAO Technical Instructions" means the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (as amended, including amendments adopted after the date of enactment of this Act).]

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FAA REAUTHORIZATION ACT OF 2018

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DIVISION B—FAA REAUTHORIZATION ACT OF 2018

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TITLE III—SAFETY

Subtitle A—General Provisions

* * * * * * *

SEC. 333. SAFE AIR TRANSPORTATION OF LITHIUM CELLS AND BATTERIES.

(a) HARMONIZATION WITH ICAO TECHNICAL INSTRUCTIONS.—

(1) ADOPTION OF ICAO INSTRUCTIONS.—

[(A) IN GENERAL.—] [Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), not later than 90 days after the date of enactment of this Act, the Secretary] *The Secretary* of Transportation shall conform United States regulations on the air transport of lithium cells and batteries with the lithium cells and battery requirements in the 2015-2016 edition of the International Civil Aviation Organization's (referred to in this subsection as "ICAO") Technical Instructions (to include all addenda), including the revised standards adopted by ICAO which became effective on April 1, 2016 and any further revisions adopted by ICAO prior to the effective date of the FAA Reauthorization Act of 2018.

[(B) FURTHER PROCEEDINGS.—Beginning on the date the revised regulations under subparagraph (A) are published in the Federal Register, any lithium cell and battery rulemaking action or update commenced on or after that date shall continue to comply with the requirements under

section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).]

(2) REVIEW OF OTHER REGULATIONS.—[Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), the Secretary] *The Secretary* of Transportation may initiate a review of other existing regulations regarding the air transportation, including passenger-carrying and cargo aircraft, of lithium batteries and cells.

(b) MEDICAL DEVICE BATTERIES.—

(1) IN GENERAL.—For United States applicants, the Secretary of Transportation shall consider and either grant or deny, not later than 45 days after receipt of an application, an application submitted in compliance with part 107 of title 49, Code of Federal Regulations, for special permits or approvals for air transportation of lithium ion cells or batteries specifically used by medical devices. Not later than 30 days after the date of application, the Pipeline and Hazardous Materials Safety Administration shall provide a draft special permit to the Federal Aviation Administration based on the application. The Federal Aviation Administration shall conduct an on-site inspection for issuance of the special permit not later than 20 days after the date of receipt of the draft special permit from the Pipeline and Hazardous Materials Safety Administration.

(2) LIMITED EXCEPTIONS TO RESTRICTIONS ON AIR TRANSPORTATION OF MEDICAL DEVICE BATTERIES.—The Secretary shall issue limited exceptions to the restrictions on transportation of lithium ion and lithium metal batteries to allow the shipment on a passenger aircraft of not more than 2 replacement batteries specifically used for a medical device if—

(A) the intended destination of the batteries is not serviced daily by cargo aircraft if a battery is required for medically necessary care; and

(B) with regard to a shipper of lithium ion or lithium metal batteries for medical devices that cannot comply with a charge limitation in place at the time, each battery is—

(i) individually packed in an inner packaging that completely encloses the battery;

(ii) placed in a rigid outer packaging; and

(iii) protected to prevent a short circuit.

(3) MEDIAL DEVICE DEFINED.—ln this subsection, the term "medical device" means an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent, including any component, part, or accessory thereof, which is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, of a person.

[(4) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as expanding or constricting any other authority the Secretary of Transportation has under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).]

(c) LITHIUM BATTERY SAFETY WORKING GROUP.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall establish a lithium battery safety working group (referred to as the "working group" in this section) to promote and coordinate efforts related to the promotion of the safe manufacture, use, and transportation of lithium batteries and cells.

(2) DUTIES.—The working group shall coordinate and facilitate the transfer of knowledge and expertise among the following Federal agencies:

(A) The Department of Transportation.

(B) The Consumer Product Safety Commission.

(C) The National Institute on Standards and Technology.

(D) The Food and Drug Administration.

(3) MEMBERS.—The Secretary shall appoint not more than 8 members to the working group with expertise in the safe manufacture, use, or transportation of lithium batteries and cells.

(4) SUBCOMMITTEES.—The Secretary, or members of the working group, may—

(A) establish working group subcommittees to focus on specific issues related to the safe manufacture, use, or transportation of lithium batteries and cells; and

(B) include in a subcommittee the participation of non-member stakeholders with expertise in areas that the Secretary or members consider necessary.

(5) REPORT.—Not later than 1 year after the date it is established, the working group shall—

(A) identify and assess—

(i) additional ways to decrease the risk of fires and explosions from lithium batteries and cells;

(ii) additional ways to ensure uniform transportation requirements for both bulk and individual batteries; and

(iii) new or existing technologies that may reduce the fire and explosion risk of lithium batteries and cells; and

(B) transmit to the appropriate committees of Congress a report on the assessments conducted under subparagraph (A), including any legislative recommendations to effectuate the safety improvements described in clauses (i) through (iii) of that subparagraph.

(6) TERMINATION.—The working group, and any working group subcommittees, shall terminate 90 days after the date the report is transmitted under paragraph (5).

(d) LITHIUM BATTERY AIR SAFETY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish, in accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), a lithium ion and lithium metal battery air safety advisory committee (in this subsection referred to as the "Committee").

(2) DUTIES.—The Committee shall—

(A) facilitate communication between manufacturers of lithium ion and lithium metal cells and batteries, manufacturers of products incorporating both large and small lithium ion and lithium metal batteries, air carriers, and the Federal Government regarding the safe air transportation of lithium ion and lithium metal cells and batteries and the effectiveness and economic and social impacts of the regulation of such transportation;

(B) provide the Secretary, the Federal Aviation Administration, and the Pipeline and Hazardous Materials Safety Administration with timely information about new lithium ion and lithium metal battery technology and transportation safety practices and methodologies;

(C) provide a forum for the Secretary to provide information on and to discuss the activities of the Department of Transportation relating to lithium ion and lithium metal battery transportation safety, the policies underlying the activities, and positions to be advocated in international forums;

(D) provide a forum for the Secretary to provide information and receive advice on—

(i) activities carried out throughout the world to communicate and enforce relevant United States regulations and the ICAO Technical Instructions; and

(ii) the effectiveness of the activities;

(E) provide advice and recommendations to the Secretary with respect to lithium ion and lithium metal battery air transportation safety, including how best to implement activities to increase awareness of relevant requirements and their importance to travelers and shippers; and

(F) review methods to decrease the risk posed by air shipment of undeclared hazardous materials and efforts to educate those who prepare and offer hazardous materials for shipment via air transport.

(3) MEMBERSHIP.—The Committee shall be composed of the following members:

(A) Individuals appointed by the Secretary to represent—

(i) large volume manufacturers of lithium ion and lithium metal cells and batteries;

(ii) domestic manufacturers of lithium ion and lithium metal batteries or battery packs;

(iii) manufacturers of consumer products powered by lithium ion and lithium metal batteries;

(iv) manufacturers of vehicles powered by lithium ion and lithium metal batteries;

(v) marketers of products powered by lithium ion and lithium metal batteries;

(vi) cargo air service providers based in the United States;

(vii) passenger air service providers based in the United States;

(viii) pilots and employees of air service providers described in clauses (vi) and (vii);

(ix) shippers of lithium ion and lithium metal batteries for air transportation;

(x) manufacturers of battery-powered medical devices or batteries used in medical devices; and

(xi) employees of the Department of Transportation, including employees of the Federal Aviation Administration and the Pipeline and Hazardous Materials Safety Administration.

(B) Representatives of such other Government departments and agencies as the Secretary determines appropriate.

(C) Any other individuals the Secretary determines are appropriate to comply with Federal law.

(4) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the establishment of the Committee, the Committee shall submit to the Secretary and the appropriate committees of Congress a report that—

(i) describes and evaluates the steps being taken in the private sector and by international regulatory authorities to implement and enforce requirements relating to the safe transportation by air of bulk shipments of lithium ion cells and batteries; and

(ii) identifies any areas of enforcement or regulatory requirements for which there is consensus that greater attention is needed.

(B) INDEPENDENT STATEMENTS.—Each member of the Committee shall be provided an opportunity to submit an independent statement of views with the report submitted pursuant to subparagraph (A).

(5) MEETINGS.—

(A) IN GENERAL.—The Committee shall meet at the direction of the Secretary and at least twice a year.

(B) PREPARATION FOR ICAO MEETINGS.—Notwithstanding subparagraph (A), the Secretary shall convene a meeting of the Committee in connection with and in advance of each meeting of the International Civil Aviation Organization, or any of its panels or working groups, addressing the safety of air transportation of lithium ion and lithium metal batteries to brief Committee members on positions to be taken by the United States at such meeting and provide Committee members a meaningful opportunity to comment.

(6) TERMINATION.—The Committee shall terminate on the date that is 6 years after the date on which the Committee is established.

(7) TERMINATION OF FUTURE OF AVIATION ADVISORY COMMITTEE.—The Future of Aviation Advisory Committee shall terminate on the date on which the lithium ion battery air safety advisory committee is established.

(e) COOPERATIVE EFFORTS TO ENSURE COMPLIANCE WITH SAFETY REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with appropriate Federal agencies, shall carry out cooperative efforts to ensure that shippers who offer lithium ion and lithium metal batteries for air transport to or from the United States comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

(2) COOPERATIVE EFFORTS.—The cooperative efforts the Secretary shall carry out pursuant to paragraph (1) include the following:

(A) Encouraging training programs at locations outside the United States from which substantial cargo shipments of lithium ion or lithium metal batteries originate for manufacturers, freight forwarders, and other shippers and potential shippers of lithium ion and lithium metal batteries.

(B) Working with Federal, regional, and international transportation agencies to ensure enforcement of U.S. Hazardous Materials Regulations and ICAO Technical Instructions with respect to shippers who offer noncompliant shipments of lithium ion and lithium metal batteries.

(C) Sharing information, as appropriate, with Federal, regional, and international transportation agencies regarding noncompliant shipments.

(D) Pursuing a joint effort with the international aviation community to develop a process to obtain assurances that appropriate enforcement actions are taken to reduce the likelihood of noncompliant shipments, especially with respect to jurisdictions in which enforcement activities historically have been limited.

(E) Providing information in brochures and on the internet in appropriate foreign languages and dialects that describes the actions required to comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

(F) Developing joint efforts with the international aviation community to promote a better understanding of the requirements of and methods of compliance with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

(3) REPORTING.—Not later than 120 days after the date of enactment of this Act, and annually thereafter for 2 years, the Secretary shall submit to the appropriate committees of Congress a report on compliance with the policy set forth in subsection (e) and the cooperative efforts carried out, or planned to be carried out, under this subsection.

(f) PACKAGING IMPROVEMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with interested stakeholders, shall submit to the appropriate committees of Congress an evaluation of current practices for the packaging of lithium ion batteries and cells for air transportation, including recommendations, if any, to improve the packaging of such

batteries and cells for air transportation in a safe, efficient, and cost-effective manner.

(g) DEPARTMENT OF TRANSPORTATION POLICY ON INTERNATIONAL REPRESENTATION.—

(1) IN GENERAL.—It shall be the policy of the Department of Transportation to support the participation of industry and labor stakeholders in all panels and working groups of the dangerous goods panel of the ICAO and any other international test or standard setting organization that considers proposals on the safety or transportation of lithium ion and lithium metal batteries in which the United States participates.

(2) PARTICIPATION.—The Secretary of Transportation shall request that as part of the ICAO deliberations in the dangerous goods panel on these issues, that appropriate experts on issues under consideration be allowed to participate.

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

[(1) ICAO TECHNICAL INSTRUCTIONS.—The term "ICAO Technical Instructions" has the meaning given that term in section 828(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).]

(1) ICAO TECHNICAL INSTRUCTIONS.—The term "ICAO Technical Instructions" means the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air.

(2) U.S. HAZARDOUS MATERIALS REGULATIONS.—The term "U.S. Hazardous Materials Regulations" means the regulations in parts 100 through 177 of title 49, Code of Federal Regulations (including amendments adopted after the date of enactment of this Act).

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RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

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TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

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SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

(a) GENERAL AUTHORITY.—The Secretary shall provide direct loans and loan guarantees to—

(1) State and local governments;

(2) interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note);

(3) government sponsored authorities and corporations;

(4) railroads;

(5) joint ventures that include at least 1 of the entities described in paragraph (1), (2), (3), (4), or (6); and

(6) solely for the purpose of constructing a rail connection between a plant or facility and a railroad, limited option freight shippers that own or operate a plant or other facility.

(b) ELIGIBLE PURPOSES.—

(1) IN GENERAL.—Direct loans and loan guarantees under this section shall be used to—

(A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, *civil works such as cuts and fills, stations, tunnels,* bridges, yards, buildings, and shops, and costs related to these activities, including pre-construction costs;

(B) refinance outstanding debt incurred for the purposes described in subparagraph (A) or (C);

(C) develop or establish new intermodal or railroad facilities;

(D) reimburse planning*, permitting,* and design expenses relating to activities described in subparagraph (A) or (C); or

(E) finance economic development, including commercial and residential development, and related infrastructure and activities, that—

(i) incorporates private investment;

(ii) is physically or functionally related to a passenger rail station or multimodal station that includes rail service;

(iii) has a high probability of the applicant commencing the contracting process for construction not later than 90 days after the date on which the direct loan or loan guarantee is obligated for the project under this title; and

(iv) has a high probability of reducing the need for financial assistance under any other Federal program for the relevant passenger rail station or service by increasing ridership, tenant lease payments, or other activities that generate revenue exceeding costs.

(2) OPERATING EXPENSES NOT ELIGIBLE.—Direct loans and loan guarantees under this section shall not be used for railroad operating expenses.

[(3) SUNSET.—The Secretary may provide a direct loan or loan guarantee under this section for a project described in paragraph (1)(E) until September 30, 2020.]

(c) PRIORITY PROJECTS.—In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

(1) enhance public safety, including projects for the installation of a positive train control system (as defined in section 20157(i) of title 49, United States Code);

(2) promote economic development;

(3) enhance the environment;

(4) enable United States companies to be more competitive in international markets;

(5) are endorsed by the plans prepared under section 135 of title 23 or chapter 227 of title 49, United States Code, by the State or States in which they are located;

(6) improve railroad stations and passenger facilities and increase transit-oriented development;

(7) preserve or enhance rail or intermodal service to small communities or rural areas;

(8) enhance service and capacity in the national rail system; or

(9) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.

(d) EXTENT OF AUTHORITY.—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed $35,000,000,000 at any one time. Of this amount, not less than $7,000,000,000 shall be available solely for projects primarily benefiting freight railroads other than Class I carriers. The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.

(e) RATES OF INTEREST.—

(1) DIRECT LOANS.—The Secretary shall require interest to be paid on a direct loan made under this section at a rate not less than that necessary to recover the cost of making the loan.

(2) LOAN GUARANTEES.—The Secretary shall not make a loan guarantee under this section if the interest rate for the loan exceeds that which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

(f) INFRASTRUCTURE PARTNERS.—

(1) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)(1)), including the cost of a modification thereof, the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source, including a State or local government or agency or public benefit corporation or public authority thereof, to fund in whole or in part credit risk premiums and modification costs with respect to the loan that is the subject of the application or modification. In no event shall the aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

(2) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

(A) the circumstances of the applicant, including the amount of collateral offered, if any;

(B) the proposed schedule of loan disbursements;

(C) historical data on the repayment history of similar borrowers;

(D) consultation with the Congressional Budget Office; and

(E) any other factors the Secretary considers relevant.

(3) CREDITWORTHINESS.—An applicant may propose and the Secretary shall accept as a basis for determining the amount of the credit risk premium under paragraph (2) any of the following in addition to the value of any tangible asset:

(A) The net present value of a future stream of State or local subsidy income or other dedicated revenues to secure the direct loan or loan guarantee.

(B) Adequate coverage requirements to ensure repayment, on a non-recourse basis, from cash flows generated by the project or any other dedicated revenue source, including—

(i) tolls;

(ii) user fees; or

(iii) payments owing to the obligor under a public-private partnership.

(C) An investment-grade rating on the direct loan or loan guarantee, as applicable, except that if the total amount of the direct loan or loan guarantee is greater than $75,000,000, the applicant shall have an investment-grade rating from at least 2 rating agencies on the direct loan or loan guarantee.

(D) A projection of freight or passenger demand for the project based on regionally developed economic forecasts, including projections of any modal diversion resulting from the project.

(4) PAYMENT OF PREMIUMS.—**[**Credit risk premiums**]** *(A) TIMING OF PAYMENT.—Credit risk premiums* under this subsection shall be paid to the Secretary before the disbursement of loan amounts (and in the case of a modification, before the modification is executed), to the extent appropriations are not available to the Secretary to meet the costs of direct loans and loan guarantees, including costs of modifications thereof. *In the case of an applicant seeking a loan that is less than 50 percent of the total cost of the project, half of the credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts and the remaining half shall be paid to the Secretary in equal amounts semiannually and fully paid not later than 10 years after the first loan disbursement is executed.*

(B) PAYMENT OF CREDIT RISK PREMIUMS.—

(i) IN GENERAL.—In granting assistance under this section, the Secretary may pay credit risk premiums required under paragraph (3) for entities described in paragraphs (1) through (3) of subsection (a), in whole or in part, with respect to a loan or loan guarantee.

(ii) SET-ASIDE.—Of the amounts made available for payments for a fiscal year under clause (i), the Secretary shall reserve $125,000,000 for payments for pas-

senger rail projects, to remain available until expended.

(C) REFUND OF PREMIUM.—The Secretary shall repay the credit risk premium of each loan in cohort 3, as defined by the memorandum to the Office of Management and Budget of the Department of Transportation dated November 5, 2018, with interest accrued thereon, not later than 60 days after the date on which all obligations attached to each such loan have been satisfied. For each such loan for which obligations have been satisfied as of the date of enactment of the TRAIN Act, the Secretary shall repay the credit risk premium of each such loan, with interest accrued thereon, not later than 60 days after the date of the enactment of such Act.

(g) PREREQUISITES FOR ASSISTANCE.—The Secretary shall not make a direct loan or loan guarantee under this section unless the Secretary has made a finding in writing that—

(1) repayment of the obligation is required to be made within a term of not more than the lesser of—

(A) 35 years after the date of substantial completion of the project; or

(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established;

(2) the direct loan or loan guarantee is justified by the present and probable future demand for rail services or intermodal facilities;

(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government; and

(5) the purposes of the direct loan or loan guarantee are consistent with subsection (b).

(h) CONDITIONS OF ASSISTANCE.—(1) The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

(A) will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant, railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under this section;

(B) will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

(C) will not make any discretionary dividend payments that unreasonably conflict with the purposes stated in subsection (b).

(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project, if applicable. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title; and

(B) the protective arrangements established under section 504 of this Act, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.

(4) The Secretary shall require each recipient of a direct loan or loan guarantee under this section for a project described in subsection (b)(1)(E) to provide a non-Federal match of not less than 25 percent of the total amount expended by the recipient for such project.

(i) APPLICATION PROCESSING PROCEDURES.—

(1) APPLICATION STATUS NOTICES.—Not later than 30 days after the date that the Secretary receives an application under this section, or additional information and material under paragraph (2)(B), the Secretary shall provide the applicant written notice as to whether the application is complete or incomplete.

(2) INCOMPLETE APPLICATIONS.—If the Secretary determines that an application is incomplete, the Secretary shall—

(A) provide the applicant with a description of all of the specific information or material that is needed to complete the application, including any information required by an independent financial analyst; and

(B) allow the applicant to resubmit the application with the information and material described under subparagraph (A) to complete the application.

(3) APPLICATION APPROVALS AND DISAPPROVALS.—

(A) IN GENERAL.—Not later than 60 days after the date the Secretary notifies an applicant that an application is complete under paragraph (1), the Secretary shall provide the applicant written notice as to whether the Secretary has approved or disapproved the application.

(B) ACTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—In order to enable compliance with the time limit under subparagraph (A), the Office of Management and Budget shall take any action required with respect to the application within that 60-day period.

(4) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining an approval or a disapproval of an application for a direct loan or loan guarantee under this title.

(5) DASHBOARD.—The Secretary shall post on the Department of Transportation's Internet Web site a monthly report that includes, for each application—

(A) the applicant type;

(B) the location of the project;

(C) a brief description of the project, including its purpose;

(D) the requested direct loan or loan guarantee amount;

(E) the date on which the Secretary provided application status notice under paragraph (1); and

(F) the date that the Secretary provided notice of approval or disapproval under paragraph (3).

(j) REPAYMENT SCHEDULES.—

(1) IN GENERAL.—The Secretary shall establish a repayment schedule requiring payments to commence not later than 5 years after the date of substantial completion.

(2) ACCRUAL.—Interest shall accrue as of the date of disbursement, and shall be amortized over the remaining term of the loan beginning at the time the payments begin.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If at any time after the date of substantial completion the obligor is unable to pay the scheduled loan repayments of principal and interest on a direct loan provided under this section, the Secretary, subject to subparagraph (B), may allow, for a maximum aggregate time of 1 year over the duration of the direct loan, the obligor to add unpaid principal and interest to the outstanding balance of the direct loan.

(B) INTEREST.—A payment deferred under subparagraph (A) shall—

(i) continue to accrue interest under paragraph (2) until the loan is fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(4) PREPAYMENTS.—

(A) USE OF EXCESS REVENUES.—With respect to a direct loan provided by the Secretary under this section, any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the direct loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The direct loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(k) SALE OF DIRECT LOANS.—

(1) IN GENERAL.—Subject to paragraph (2) and as soon as practicable after substantial completion of a project, the Secretary, after notifying the obligor, may sell to another entity or reoffer into the capital markets a direct loan for the project if the Secretary determines that the sale or reoffering has a high probability of being made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the prior written consent of the obligor.

(l) NONSUBORDINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a direct loan provided by the Secretary under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(2) PREEXISTING INDENTURES.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture if—

(i) the direct loan is rated in the A category or higher;

(ii) the direct loan is secured and payable from pledged revenues not affected by project performance, such as a tax-based revenue pledge or a system-backed pledge of project revenues; and

(iii) the program share, under this title, of eligible project costs is 50 percent or less.

(B) LIMITATION.—The Secretary may impose limitations for the waiver of the nonsubordination requirement under this paragraph if the Secretary determines that such limitations would be in the financial interest of the Federal Government.

(m) MASTER CREDIT AGREEMENTS.—

(1) IN GENERAL.—Subject to subsection (d) and paragraph (2) of this subsection, the Secretary may enter into a master credit agreement that is contingent on all of the conditions for the provision of a direct loan or loan guarantee, as applicable, under this title and other applicable requirements being satisfied prior to the issuance of the direct loan or loan guarantee.

(2) CONDITIONS.—Each master credit agreement shall—

(A) establish the maximum amount and general terms and conditions of each applicable direct loan or loan guarantee;

(B) identify 1 or more dedicated non-Federal revenue sources that will secure the repayment of each applicable direct loan or loan guarantee;

(C) provide for the obligation of funds for the direct loans or loan guarantees contingent on and after all requirements have been met for the projects subject to the master credit agreement; and

(D) provide 1 or more dates, as determined by the Secretary, before which the master credit agreement results in each of the direct loans or loan guarantees or in the release of the master credit agreement.

(n) NON-FEDERAL SHARE.—The proceeds of a loan provided under this section may be used as the non-Federal share of project costs under this title or chapter 53 of title 49 if such loan is repayable from non-Federal funds.

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AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

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TITLE I—REFORMS

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Subtitle B—Procurement

SEC. 121. CONTRACTING OUT.

(a) REPEAL OF BAN ON CONTRACTING OUT.—Section 24312 is amended—

(1) by striking subsection (b);

(2) by striking "(1)" in subsection (a); and

(3) by striking "(2) Wage" in subsection (a) and inserting "(b)WAGE RATES.—Wage".

(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date of the amendments made by subsection (a).

(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act.

(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work**[**, other than work related to food and beverage service,**]** which results in the layoff of an Amtrak employee—

(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

(A) the date on which labor agreements under negotiation on the date of enactment of this Act may be reopened; or

(B) November 1, 1999,

whichever is earlier;

(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

[(d) NO INFERENCE.—The amendment made by subsection (a)(1) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.**]**

(d) FURLOUGHED WORK.—Amtrak may not contract out work within the scope of work performed by an employee in a bargaining unit covered by a collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees during the period of time such employee has been laid off and has not been recalled to perform such work.

(e) AGREEMENT PROHIBITIONS ON CONTRACTING OUT.—This section does not—

(1) supersede a prohibition or limitation on contracting out work covered by a collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees; or

(2) prohibit Amtrak and an organization representing Amtrak employees from entering into a collective bargaining agreement that allows for contracting out the work of a furloughed employee that would otherwise be prohibited under subsection (d).

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Sec. 421. Safety standards for certain rail crews.

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SEC. 416. SAFETY INSPECTIONS IN MEXICO.

(a) IN GENERAL.—Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary certifies that-

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;

(2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;

(3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and

(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this section.

(b) WAIVER.—The Secretary may not grant any waiver or waiver modification that provides for the ability to perform mechanical or brake inspections of rail cars in Mexico in lieu of complying with the certification requirements of this section.

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SEC. 421. SAFETY STANDARDS FOR CERTAIN RAIL CREWS.

(a) IN GENERAL.—The Secretary of Transportation may not permit covered rail employees to enter the United States to perform train or dispatching service unless the Secretary certifies that—

(1) Mexico has adopted and is enforcing safety standards for covered rail employees that are equivalent to, or greater than, those applicable to railroad employees whose primary reporting point is in the United States, including qualification and certification requirements under parts 240 and 242 of title 49, Code of Federal Regulations;

(2) covered rail employees are subject to the alcohol and drug testing requirements in part 219 of title 49, Code of Federal Regulations, including the requirements of subparts F, G, and H of such part, to the same extent as such requirements apply to railroad employees whose primary reporting point is in the United States and who are subject to such part;

(3) covered rail employees are subject to hours of service requirements under section 21103 of title 49, United States Code, at all times any such employee is on duty, regardless of location;

(4) covered rail employees are subject to the motor vehicle driving record evaluation requirements in section 240.115 of title 49, Code of Federal Regulations, to the same extent as such requirements apply to railroad employees whose primary reporting point is in the United States and are subject to such section, and that such evaluation includes driving records from the same country as the employee's primary reporting point; and

(5) the Federal Railroad Administration is permitted to perform onsite inspections of rail facilities in Mexico to ensure compliance with paragraphs (1) and (2).

(b) NOTICE REQUIRED.—

(1) IN GENERAL.—Not later than 5 days after the date on which the Secretary certifies each of the requirements under paragraphs (1) through (5) of subsection (a), the Secretary shall publish in the Federal Register—

(A) notice of each such certification; and

(B) documentation supporting each such certification.

(2) PUBLIC COMMENT.—To ensure compliance with the requirements of this section and any other applicable safety requirements, the Secretary shall—

(A) allow for public comment on the notice required under paragraph (1); and

(B) hold a public hearing on such notice.

(3) CONGRESSIONAL NOTICE.—On the date on which each publication required under paragraph (1) is published in the Federal Register, the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of such publication.

(c) DRUG AND ALCOHOL TESTING.—

(1) NONAPPLICATION OF EXEMPTION.—For purposes of compliance with subsection (a)(2), the exemption contained in part 219.3(d)(2) of title 49, Code of Federal Regulations, shall not apply.

(2) AUDIT BY OFFICE OF DRUG AND ALCOHOL COMPLIANCE.—To ensure compliance with the drug and alcohol testing programs described in subsection (a)(2), the Office of Drug and Alcohol Compliance in the Department of Transportation shall conduct an annual audit of such programs and recommend enforcement actions as needed.

(d) DEFINITION OF COVERED RAIL EMPLOYEE.—In this section, the term "covered rail employee" means a railroad employee whose primary reporting point is in Mexico.

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