

107TH CONGRESS
2^D SESSION

H. R. 5455

To amend title 23, United States Code, relating to streamlining for highway and transit projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2002

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, relating to streamlining for highway and transit projects, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Expediting Project Delivery To Improve Transportation
6 and the Environment Act”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—HIGHWAY AND TRANSIT PROJECT STREAMLINING

Sec. 101. Expediting and improving project development.

- Sec. 102. Limitations on claims.
- Sec. 103. Protected resources policy.
- Sec. 104. Interagency cooperation.
- Sec. 105. Program management and oversight.
- Sec. 106. Federal program for State environmental review.

TITLE II—IMPROVING TRANSIT PROGRAM DELIVERY

- Sec. 201. Eliminating duplication in compliance requirements for alcohol and controlled substance testing.
- Sec. 202. Very small transit operator option for lower cost compliance requirements for alcohol and controlled substance testing.
- Sec. 203. Job access and reverse commute grants requirements.
- Sec. 204. Grant terms and conditions for buses and bus-related facilities, for grants made to rural providers and for elderly and disabled transit services.
- Sec. 205. Grant terms and conditions for buses and bus-related facilities, for grants made to private transit providers.
- Sec. 206. GSA transit bus purchasing pilot program.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) surface transportation projects play a major
4 role in interstate and foreign commerce;

5 (2) delays in our surface transportation projects
6 have a significant negative impact on our Nation's
7 economy;

8 (3) planning, design, and construction of sur-
9 face transportation projects must include an envi-
10 ronmental review process that provides local citi-
11 zenry an opportunity for consideration of and appro-
12 priate action to address environmental concerns; and

13 (4) the Federal Highway Administration, the
14 Federal Transit Administration, communities, and
15 other Federal, State, and local government agencies
16 must work together to develop a plan, set and honor
17 milestones and deadlines, and work to protect the

1 environment while sustaining the economic vitality
 2 that will result from the continued growth of our
 3 transportation infrastructure.

4 **TITLE I—HIGHWAY AND TRANSIT**
 5 **PROJECT STREAMLINING**

6 **SEC. 101. EXPEDITING AND IMPROVING PROJECT DEVEL-**
 7 **OPMENT.**

8 (a) IN GENERAL.—Chapter 3 of title 23, United
 9 States Code, is amended by inserting after section 306 the
 10 following:

11 **“§ 307. Expediting and improving project develop-**
 12 **ment**

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

15 “(1) NEPA PROCESS.—The term ‘NEPA proc-

16 ess’ means the process for preparing a detailed

17 statement on environmental impact, an environ-

18 mental assessment, or other document to be pre-

19 pared under the National Environmental Policy Act

20 of 1969 (42 U.S.C. 4321 et seq.), including regula-

21 tions issued to carry out such Act.

22 “(2) SURFACE TRANSPORTATION NEPA PROC-

23 ESS.—The term ‘surface transportation NEPA proc-

24 ess’ means the NEPA process as it applies to a sur-

1 face transportation project and as it is modified by
2 the procedures set forth in this section.

3 “(3) SURFACE TRANSPORTATION PROJECT.—

4 The term ‘surface transportation project’ means a
5 highway project eligible for Federal assistance from
6 the Highway Trust Fund, and a transit project eligi-
7 ble for Federal assistance from the Highway Trust
8 Fund, for which a detailed statement on environ-
9 mental impact or an environmental assessment is to
10 be prepared under the National Environmental Pol-
11 icy Act of 1969 (42 U.S.C. 4321 et seq.), including
12 regulations issued to carry out such Act.

13 “(b) AGENCY ROLES AND RESPONSIBILITIES.—

14 “(1) SURFACE TRANSPORTATION NEPA PROC-
15 ESS.—Each Federal agency shall satisfy its obliga-
16 tions, if any, under the National Environmental Pol-
17 icy Act of 1969 (42 U.S.C. 4321 et seq.), including
18 regulations issued to carry out such Act, with re-
19 spect to a surface transportation project by partici-
20 pating in a surface transportation NEPA process
21 with respect to such project in accordance with this
22 section. To the greatest extent practicable, the Fed-
23 eral agency shall also satisfy its obligations, if any,
24 under other applicable laws with respect to the
25 project under the surface transportation NEPA

1 process and identify during such process such obli-
2 gations to the lead agency for the project.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—The
4 lead agency for the surface transportation NEPA
5 process with respect to a surface transportation
6 project shall be the Federal Highway Administra-
7 tion, the Federal Transit Administration, or the 2
8 Administrations jointly in any case in which the
9 project is a project for which both of the Adminis-
10 trations are providing financial assistance. The lead
11 agency shall be responsible for the timely execution
12 of the following actions:

13 “(A) Determining the purpose and need
14 for the proposed action.

15 “(B) Determining the alternatives to be
16 considered and the level of detail of analysis of
17 those alternatives, including evaluation of trans-
18 portation and environmental consequences of
19 those alternatives.

20 “(C) Determining the appropriate meth-
21 odologies for measuring transportation needs,
22 transportation benefits, and transportation im-
23 pacts.

24 “(D) Developing a schedule for the surface
25 transportation NEPA process and an agency

1 coordination plan, including opportunities for
2 comment and comment deadlines.

3 “(E) Coordinating efforts to identify and
4 resolve expeditiously any issues that could cause
5 other Federal agencies to oppose or deny ap-
6 proval for a project under any Federal law or
7 that could cause delay in the completion of the
8 surface transportation NEPA process.

9 “(F) Identifying, as soon as practicable, all
10 Federal and State agencies that may have juris-
11 diction over environmental-related matters that
12 may be affected by the project or may be re-
13 quired by law to conduct an environmental-re-
14 lated review or analysis of the project or deter-
15 mine whether to issue an environmental-related
16 permit, license, or approval for the project.

17 “(G) Inviting relevant Federal and State
18 agencies to participate in the surface transpor-
19 tation NEPA process. The invitation shall
20 specify a deadline of no less than 30 days for
21 submittal to the lead agency of responses to the
22 invitation. State agencies, consistent with State
23 law, may choose to participate in the process.
24 The State may provide that all State agencies
25 that have jurisdiction over environmental-re-

1 lated matters that may be affected by the
2 project or may be required by law to conduct an
3 environmental-related review or analysis of the
4 project or determine whether to issue an envi-
5 ronmental-related permit, license, or approval
6 for the project, be subject to the process.

7 “(H) Preparing or ensuring that any de-
8 tailed statement on environmental impact, envi-
9 ronmental assessment, or other document re-
10 quired for the project under the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C. 4321
12 et seq.), is completed in accordance with the
13 surface transportation NEPA process.

14 “(3) PARTICIPATING AGENCY.—

15 “(A) DESIGNATION.—Any Federal or
16 State agency that is invited by the lead agency
17 to participate in the surface transportation
18 NEPA process for a project shall be treated as
19 a participating agency for purposes of such
20 process, unless the agency informs the lead
21 agency in writing that it has no jurisdiction or
22 authority with respect to the project, has no ex-
23 pertise or information relevant to the project, or
24 has no intention of submitting comments on the
25 project. If an agency invited to participate in

1 such process does not respond to the invitation
2 within the period provided for responses under
3 paragraph (2)(G), the agency shall be treated
4 as accepting the invitation as a participating
5 agency for purposes of such process.

6 “(B) RESPONSIBILITIES.—Each partici-
7 pating agency must—

8 “(i) respond in a timely manner to re-
9 quests from the lead agency or the project
10 sponsor for information or comments re-
11 garding the project or the surface trans-
12 portation NEPA process;

13 “(ii) identify in any comments filed
14 with the lead agency any issues that, if not
15 resolved, could cause the participating
16 agency to oppose or not approve the
17 project (or a particular alternative for the
18 project) or that could cause delays in the
19 surface transportation NEPA process
20 schedule established by the lead agency;
21 and

22 “(iii) participate in good faith in any
23 efforts to identify promptly and resolve any
24 issues regarding the project that could
25 cause the agency to oppose or deny ap-

1 proval for the project or that could cause
2 delays in such schedule.

3 “(C) EFFECT OF DESIGNATION.—Designa-
4 tion as a participating agency under this sub-
5 section does not imply support for a proposed
6 project, nor does it imply that an agency has
7 jurisdiction over the project or special expertise
8 in evaluating it.

9 “(4) PROJECT SCHEDULE.—The lead agency or
10 the sponsor for a project under this section shall es-
11 tablish, in consultation with the participating agen-
12 cies for the project, a schedule for completing the
13 surface transportation NEPA process, including any
14 related permits, approvals, reviews, or studies re-
15 quired for the project under other Federal laws and
16 identified under paragraph (1). The project schedule
17 shall include comment opportunities and deadlines
18 for participating agencies as follows:

19 “(A) PROPOSAL OF PRELIMINARY PROJECT
20 ALTERNATIVES.—If a detailed statement on en-
21 vironmental impact is being prepared, or in
22 other circumstances determined appropriate by
23 the lead agency, the lead agency shall prepare
24 and submit to the participating agencies a pro-
25 posed statement of purpose and need and a pro-

1 posed set of preliminary alternatives for the
2 project. The participating agencies shall submit
3 comments on the proposal to the lead agency
4 not later than the 30th day following the date
5 the lead agency submits the proposal to the
6 participating agencies.

7 “(B) PROPOSAL OF DETAILED PROJECT
8 ALTERNATIVES.—If a detailed statement on en-
9 vironmental impact is being prepared under the
10 surface transportation NEPA process, or in
11 other circumstances determined appropriate by
12 the lead agency, the lead agency shall prepare
13 and submit to the participating agencies a set
14 of proposed alternatives that the lead agency
15 considers to be reasonable alternatives requiring
16 detailed analysis in such process. The partici-
17 pating agencies shall submit comments on the
18 proposal to the lead agency not later than the
19 30th day following the date the lead agency
20 submits the proposal to the participating agen-
21 cies.

22 “(C) DRAFT ENVIRONMENTAL IMPACT
23 STATEMENT.—The deadline for comments for
24 participating agencies on a draft detailed state-
25 ment on environmental impact under the sur-

1 face transportation NEPA process shall be no
2 later than 60 days after public notice of avail-
3 ability of the statement.

4 “(D) ENVIRONMENTAL ASSESSMENT OR
5 DRAFT FINDING OF NO SIGNIFICANT IMPACT.—
6 In the surface transportation nepa process, the
7 lead agency may circulate an environmental as-
8 sessment or a draft finding of no significant im-
9 pact, or both, to participating agencies for an
10 opportunity to comment. If such an opportunity
11 is provided, the deadline for participating agen-
12 cies to submit comments shall be no more than
13 45 days after the date of public notice of the
14 availability of the document or documents for
15 comment.

16 “(E) ADDITIONAL COMMENT OPPORTUNI-
17 TIES AND DEADLINES.—

18 “(i) IN GENERAL.—Nothing in sub-
19 paragraphs (A) through (D) shall preclude
20 other opportunities for coordination and
21 comment that are required or permitted by
22 any other law or that the lead agency
23 deems appropriate.

24 “(ii) DEADLINES.—The comment pe-
25 riod for any opportunity for comments that

1 are provided in the surface transportation
2 NEPA process under clause (i), in addition
3 to those specified in subparagraphs (A)
4 through (D), shall be 30 days.

5 “(5) EXTENSION AND MODIFICATION.—The
6 lead agency may extend a time limit set forth in
7 paragraph (4) for a period of not to exceed 60 days.
8 The lead agency may only grant under this para-
9 graph one extension of each time limit set forth in
10 paragraph (4). In addition, any time limit set forth
11 in paragraph (4) may be modified with the agree-
12 ment of the lead agency, the project sponsor, and
13 participating agencies.

14 “(6) EFFECT OF DEADLINE.—The lead agency
15 shall not consider any comments submitted after an
16 applicable comment deadline (including any exten-
17 sion) has passed, nor shall such comments be consid-
18 ered by any court of the United States in reviewing
19 a decision made by the lead agency with respect to
20 the project.

21 “(7) COMMITTEE NOTIFICATION.—The lead
22 agency for a project shall promptly notify the Com-
23 mittee on Environment and Public Works of the
24 Senate and the Committee on Transportation and
25 Infrastructure of the House of Representatives

1 whenever a final decision under section 303 of title
2 49 or the National Environmental Policy Act of
3 1969 (42 U.S.C. 4321 et seq.) is not made with re-
4 spect to the project before the 180th day following
5 the last day for comment with respect to the project
6 under a time limit established by this subsection, in-
7 cluding any extension of such time limit under this
8 subsection.

9 “(8) INVOLVEMENT OF THE PUBLIC.—Nothing
10 in this subsection shall limit the involvement of the
11 public, including its ability to comment, in the sur-
12 face transportation NEPA process.

13 “(c) PURPOSE AND NEED.—

14 “(1) AUTHORITY OF LEAD AGENCY.—The lead
15 agency in a surface transportation NEPA process
16 with respect to a project under subsection (b) shall
17 define the purpose and need for the project for pur-
18 poses of such process, after consideration of any
19 comments received in accordance with subsection
20 (b)(4)(A).

21 “(2) EFFECT OF LEAD AGENCY’S DEFINITION
22 ON PARTICIPATING AGENCIES.—Notwithstanding
23 any other provision of law, a participating agency
24 conducting a review or analysis, or issuing an opin-
25 ion, permit, license, or approval with respect to a

1 project that is the subject of a surface transpor-
2 tation NEPA process under subsection (b) shall be
3 bound by the project purpose and need as defined by
4 the lead agency in such process. The responsibilities
5 of the head of a participating agency under this
6 paragraph may not be delegated.

7 “(3) DEFINITION OF PROJECT OBJECTIVES.—

8 The definition of purpose and need for a surface
9 transportation project under this subsection shall de-
10 fine the objectives that the proposed action is in-
11 tended to achieve. The objectives may include one or
12 more of the following:

13 “(A) Addressing an existing or reasonably
14 foreseeable transportation problem, such as
15 traffic congestion or safety hazards.

16 “(B) Completing a section of independent
17 utility on a transportation corridor or system in
18 a manner consistent with the operational and
19 design standards for that corridor or system.

20 “(C) Providing transportation infrastruc-
21 ture to serve State, tribal, or local transpor-
22 tation, land use, economic development, or
23 growth objectives.

24 “(D) Providing transportation infrastruc-
25 ture to serve national security needs, to pro-

1 mote foreign policy goals, or to serve other na-
2 tional objectives.

3 “(d) ALTERNATIVES ANALYSIS.—

4 “(1) AUTHORITY OF LEAD AGENCY.—The lead
5 agency in a surface transportation NEPA process
6 with respect to a project under subsection (b) shall
7 determine the alternatives to be considered and the
8 level of detail of the analysis of those alternatives
9 under such process after consideration of any com-
10 ments received in accordance with this section.

11 “(2) EFFECT OF LEAD AGENCY’S DETERMINA-
12 TION ON PARTICIPATING AGENCIES.—A participating
13 agency conducting a review or analysis, or issuing an
14 opinion, permit, license, or approval with respect to
15 the project shall be bound by the decisions made by
16 the lead agency regarding the alternatives to be con-
17 sidered and the level of detail of analysis of those al-
18 ternatives. The responsibilities of the head of a par-
19 ticipating agency under this paragraph may not be
20 delegated.

21 “(3) DETERMINING ALTERNATIVES TO BE CON-
22 SIDERED.—

23 “(A) PRELIMINARY ALTERNATIVES.—The
24 set of preliminary alternatives in the surface
25 transportation NEPA process shall reflect the

1 range of alternatives proposed by the lead agen-
2 cy and any additional alternatives developed by
3 the project sponsor. An alternative may be in-
4 cluded in the set of preliminary alternatives
5 even if the lead agency considers it, based on
6 existing information, to be unreasonable.

7 “(B) ALTERNATIVES CARRIED FORWARD
8 FOR DETAILED ANALYSIS.—In defining the
9 range of reasonable alternatives to be carried
10 forward for detailed analysis in the surface
11 transportation NEPA process, the lead agency
12 may—

13 “(i) eliminate any alternative that
14 does not substantially achieve one or more
15 of the objectives of the project as defined
16 in the purpose and need definition for the
17 project; and

18 “(ii) consolidate similar alternatives,
19 in order to ensure that the number of al-
20 ternatives carried forward is manageable
21 and appropriate, given the overall mag-
22 nitude of the project and complexity of the
23 issues under analysis.

24 “(4) EVALUATION OF ALTERNATIVES.—Alter-
25 natives that are carried forward for detailed analysis

1 under paragraph (3)(B) may be evaluated in stages,
2 with the level of detail increasing as the number of
3 alternatives is reduced.

4 “(5) PREFERRED ALTERNATIVE.—Under the
5 surface transportation NEPA process, a preferred
6 alternative, if identified by the lead agency, may be
7 developed to a higher level of detail than other alter-
8 natives for such reasons as the sponsor deems ap-
9 propriate, including—

10 “(A) satisfying the requirements of envi-
11 ronmental permit applications;

12 “(B) developing and evaluating potential
13 environmental mitigation measures, for poten-
14 tial inclusion in project approval documents;

15 “(C) developing and evaluating potential
16 methods for reducing project construction costs;
17 and

18 “(D) responding to comments received
19 during such process.

20 “(6) LEAD AGENCY DETERMINATION OF REA-
21 SONABLE ALTERNATIVES.—The lead agency shall
22 determine the reasonable alternatives to the project.
23 Any other Federal or State agency that is partici-
24 pating in the NEPA surface transportation process
25 under this section with respect to the project shall

1 consider only those alternatives to the project that
2 the lead agency has determined are reasonable.

3 “(e) ISSUE RESOLUTION.—

4 “(1) REQUEST BY GOVERNOR.—The Governor
5 of a State may request, in writing, the assistance of
6 the Secretary of Transportation in resolving any
7 issue that could, in the opinion of the Governor, re-
8 sult in the denial of necessary permits or approvals
9 for a surface transportation project or cause delays
10 in carrying out the project.

11 “(2) MEETING.—Not later than the 30th day
12 following the date of receipt of a Governor’s written
13 request under paragraph (1) with respect to a
14 project, the Secretary shall convene a meeting of
15 representatives of the Governor, the Secretary, and
16 the heads of other relevant Federal agencies to ad-
17 dress and resolve any issues for which the Governor
18 requested assistance under paragraph (1).

19 “(3) NOTICE TO COMMITTEES.—If, within 30
20 days following the date of convening a meeting with
21 respect to a project under paragraph (2), the Gov-
22 ernor notifies the Secretary, in writing, that the
23 issues raised by the Governor are still unresolved,
24 the Secretary and the heads of the other relevant
25 Federal agencies shall promptly notify, in writing,

1 the Committee on Transportation and Infrastructure
2 of the House of Representatives and the Committee
3 on Environment and Public Works or the Committee
4 on Banking, Housing, and Urban Affairs of the Sen-
5 ate, as appropriate, of each issue for which the Gov-
6 ernor requested assistance under paragraph (1) and
7 the reasons that such issue remains unresolved. The
8 Secretary and heads of such Federal agencies shall
9 transmit additional notices to the Committees every
10 30 days thereafter in response to any additional no-
11 tices received from the Governor with respect to the
12 project.

13 “(f) PRIORITY.—If the Secretary and the sponsor of
14 a surface transportation project jointly find that the
15 project will provide important national or regional benefits
16 and the Secretary notifies the heads of other relevant Fed-
17 eral agencies of such finding, the Secretary and the heads
18 of such other relevant Federal agencies shall place the
19 highest priority in terms of providing personnel and finan-
20 cial resources for the project.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 chapter is amended by inserting after the item relating
23 to section 306 the following:

“307. Expediting and improving project development.”.

24 (c) CONFORMING REPEALS.—Subsections (a), (b),
25 (c), (d), (f), and (g) of section 1309 of the Transportation

1 Equity Act for the 21st Century (112 Stat. 232–234) are
2 repealed.

3 **SEC. 102. SPECIAL RULES RELATING TO JUDICIAL REVIEW.**

4 (a) IN GENERAL.—Chapter 3 of title 23, United
5 States Code, is amended by inserting after section 312 the
6 following:

7 **“§ 313. Special rules relating to judicial review**

8 “(a) LIMITATIONS ON CLAIMS.—Any claim arising
9 under a Federal law challenging a decision made in con-
10 nection with a surface transportation project as defined
11 in section 307 shall be barred unless it is filed within 90
12 days after the date on which final action is taken pursuant
13 to the Federal law.

14 “(b) FINDINGS OF FACT.—Findings of fact by the
15 lead agency under section 307 are conclusive if supported
16 by substantial evidence.

17 “(c) SUPREME COURT REVIEW.—A decision by a
18 court relating to section 307 may be reviewed only by the
19 Supreme Court under section 1254 of title 28.”.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 chapter is amended by inserting after the item relating
22 to section 312 the following:

“313. Special rules relating to judicial review.”.

1 **SEC. 103. PROTECTED RESOURCES POLICY.**

2 (a) POLICY ON LANDS AND WILDLIFE AND WATER-
3 FOWL REFUGES.—Section 303 of title 49, United States
4 Code, is amended—

5 (1) in subsection (a) by inserting “POLICY.—”
6 before “It is”;

7 (2) in subsection (b) by inserting “COOPERA-
8 TION.—” before “The Secretary”; and

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

11 “(c) PROTECTING PROTECTED RESOURCES.—Except
12 as provided in this section, the Secretary shall not approve
13 any transportation project (other than any project for a
14 park road or parkway under section 204 of title 23) that
15 has a significant impact on a protected resource.

16 “(d) FINDING OF NO SIGNIFICANT IMPACT.—

17 “(1) IN GENERAL.—The Secretary may approve
18 a proposed project described in subsection (c) if the
19 Secretary finds that it will not cause a significant
20 impact on any protected resource.

21 “(2) SIGNIFICANCE OF IMPACT.—For purposes
22 of this subsection, the significance of an impact on
23 a protected resource shall be considered comprehen-
24 sively, taking into account—

25 “(A) the value of the protected resource;

1 “(B) the value of the impacted land within
2 the protected resource;

3 “(C) the nature and extent of the impact
4 on the protected resource after mitigation,
5 measured both quantitatively and qualitatively;
6 and

7 “(D) the views of the official with jurisdic-
8 tion over the protected resource, and, in the
9 case of private property, the views of the prin-
10 cipal owner or owners of the property.

11 “(3) CATEGORIES OF PROJECTS.—Not later
12 than 1 year after the date of enactment of this sub-
13 section, the Secretary shall issue final regulations
14 listing categories of projects that do not have the po-
15 tential to cause significant impacts on protected re-
16 sources. Issuance of such a list shall satisfy the Sec-
17 retary’s obligations under this subsection with re-
18 spect to all projects within the categories included in
19 the list.

20 “(e) ALTERNATIVES EVALUATION.—If the Secretary
21 finds that a proposed project described in subsection (c)
22 may cause a significant impact on a protected resource
23 under this section, the Secretary shall develop and evalu-
24 ate alternatives, as part of the alternatives analysis for
25 the NEPA process, if any, for avoiding, minimizing, and

1 mitigating the impacts of the project on the protected re-
2 source. The Secretary shall be responsible for determining
3 the appropriate scope and level of detail of such alter-
4 natives analysis.

5 “(f) APPROVAL OF SIGNIFICANT IMPACTS.—After
6 conducting an evaluation under subsection (e), the Sec-
7 retary may approve the proposed project if the Secretary
8 finds, with respect to the set of alternatives carried for-
9 ward for detailed analysis in the NEPA process, that—

10 “(1) there is no prudent and feasible alternative
11 that would entirely avoid significant impacts on the
12 protected resource;

13 “(2) there is no prudent and feasible alternative
14 that would substantially reduce significant impacts
15 on the protected resource when compared to the se-
16 lected alternative; and

17 “(3) appropriate measures to minimize the
18 harm to the protected resource have been incor-
19 porated into the selected alternative.

20 “(g) STANDARDS.—

21 “(1) STANDARDS FOR ASSESSING FEASI-
22 BILITY.—For purposes of subsections (e) and (f),
23 the Secretary may eliminate an alternative as infea-
24 sible if the Secretary finds that the alternative can-

1 not be implemented as a matter of sound engineer-
2 ing.

3 “(2) STANDARDS FOR ASSESSING PRUDENCE.—

4 For purposes of subsections (e) and (f), the Sec-
5 retary may eliminate an alternative as imprudent if
6 the Secretary finds that the drawbacks associated
7 with that alternative clearly and substantially out-
8 weigh its benefits. In making this finding, the Sec-
9 retary shall assess the benefits and drawbacks of the
10 alternative as a whole, taking into account the alter-
11 native’s ability to achieve the project’s objectives, the
12 environmental and other impacts of the alternative
13 (including the impacts on protected resources), the
14 cost of the alternative, and any other factors deemed
15 relevant by the Secretary.

16 “(h) SUBSTITUTION OF SECTION 106 COMPLI-
17 ANCE.—The Secretary satisfies the requirements of this
18 section with respect to a historic property (as defined in
19 section 301(5) of the National Historic Preservation Act
20 (16 U.S.C. 470w(5))) by satisfying the requirements that
21 apply under section 106 of such Act (16 U.S.C. 470f) in
22 a manner that results in a determination or an agreement
23 with respect to which the State historic preservation offi-
24 cer or tribal historic preservation officer, if applicable, con-
25 curs. Such requirements are not satisfied if the Advisory

1 Council on Historic Preservation (established by section
2 201 of such Act (16 U.S.C. 470i)) notifies the Secretary
3 of its objection to the determination or agreement.

4 “(i) EXCEPTION FOR ADVERSE EFFECT ON NA-
5 TIONAL HISTORIC LANDMARK.—Notwithstanding sub-
6 section (h), unless otherwise agreed to by the Advisory
7 Council on Historic Preservation and the Secretary, sec-
8 tion 106 compliance under subsection (h) does not satisfy
9 the requirements of this section when a proposed project
10 is determined by the Secretary to have an adverse effect
11 on a National Historic Landmark designated under sec-
12 tion 101(a)(1)(B) of such Act (16 U.S.C. 470a(a)(1)(B)).

13 “(j) DEFINITIONS.—In this subsection, the following
14 definitions apply:

15 “(1) IMPACT.—The term ‘impact’, as used with
16 respect to a project to be approved by the Secretary,
17 means—

18 “(A) any direct physical impact caused by
19 the project; and

20 “(B) any visual, audible, or atmospheric
21 impact caused by the project.

22 “(2) NEPA PROCESS.—The term ‘NEPA proc-
23 ess’ has the meaning such term has under section
24 307.

1 “(3) PROTECTED RESOURCE.—The term ‘pro-
2 tected resource’ means—

3 “(A) any publicly owned land within a pub-
4 lic park, recreation area, or wildlife or water-
5 fowl refuge of national, State, or local signifi-
6 cance (as determined by the Federal, State, or
7 local officials having jurisdiction over the park,
8 area, or refuge); and

9 “(B) any historic property as defined in
10 section 301(5) of the National Historic Preser-
11 vation Act (16 U.S.C. 470w(5)).”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) REPEAL.—Section 138 of title 23, United
14 States Code, is repealed.

15 (2) CHAPTER ANALYSIS.—The analysis for
16 chapter 1 of title 23, United States Code, is amend-
17 ed by striking the item relating to section 138.

18 **SEC. 104. INTERAGENCY COOPERATION.**

19 (a) SURVEY.—

20 (1) IN GENERAL.—The Secretary of Transpor-
21 tation shall conduct biennially a survey of State
22 agencies participating in any of the following activi-
23 ties with respect to projects being carried out with
24 assistance made available from the Highway Trust
25 Fund (including the Mass Transit Account):

1 (A) The preparation of an environmental
2 assessment or environmental impact statement
3 for any such project.

4 (B) The conduct of any other environ-
5 mental review or analysis with respect to any
6 such project.

7 (C) The issuance of an environmental opin-
8 ion, permit, license, or approval with respect to
9 any such project.

10 (2) INITIAL DEADLINES.—The Secretary shall
11 initiate the conduct of the initial survey under this
12 subsection not later than the 90th day following the
13 date of enactment of this Act and shall complete
14 such survey not later than the 180th day following
15 such date of enactment.

16 (3) PURPOSE AND FORM.—To conduct a survey
17 under this subsection, the Secretary shall submit to
18 State agencies engaged in activities described in
19 paragraph (1) a written form that is designed to
20 gauge each surveyed agency's expectations and cur-
21 rent experiences with regard to cooperation with di-
22 vision offices of the Federal Highway Administration
23 and the offices of other Federal agencies that are
24 also engaged in such activities.

1 (4) REPORT.—Not later than 180 days after
2 completion of each biennial survey under this sub-
3 section, the Secretary shall compile and analyze the
4 results of such survey in a report and provide a copy
5 of such report to all Federal and State agencies en-
6 gaged in activities described in paragraph (1).

7 (b) REVIEW OF SURVEY.—Not later than 210 days
8 after completion of each biennial survey under this sub-
9 section, the Secretary shall review the reports prepared
10 under subsection (a) and recommend regional improve-
11 ments with respect to activities described in subsection
12 (a)(1).

13 (c) PLAN.—Not later than 1 year after completion
14 of each biennial survey under this section, each regional
15 office of a Federal agency engaged in an activity described
16 in subsection (a)(1) and each division of the Federal High-
17 way Administration shall develop, on the basis of the rec-
18 ommendations made under subsection (b), a plan to im-
19 prove interagency cooperation with State agencies engaged
20 in such activities.

21 (d) PROGRESS REPORT.—Not later than 2 years
22 after the date of enactment of this Act, the Secretary shall
23 provide to the Committee on Environment and Public
24 Works of the Senate and the Committee on Transpor-
25 tation and Infrastructure of the House of Representatives

1 a progress report on regional efforts to improve inter-
2 agency cooperation with the States being undertaken as
3 a result of the survey and conferences carried out under
4 this section.

5 **SEC. 105. PROGRAM MANAGEMENT AND OVERSIGHT.**

6 (a) IN GENERAL.—Chapter 3 of title 23, United
7 States Code, is amended by inserting after section 320 the
8 following:

9 **“§ 321. Program management and oversight**

10 “(a) IMPROVING PROGRAM DELIVERY.—The Sec-
11 retary shall establish a comprehensive program to stimu-
12 late the development and adoption of innovative, effective
13 methods for expediting and improving the environmental
14 review process for surface transportation projects. The
15 program shall include, at a minimum, the following ele-
16 ments:

17 “(1) Identifying, cataloging, and analyzing cur-
18 rent efforts to expedite or improve the environmental
19 review process for surface transportation projects.

20 “(2) Developing and refining guidance mate-
21 rials, such as best practices, checklists, model agree-
22 ments, and other appropriate materials.

23 “(3) Educating and training practitioners in-
24 volved in the environmental review process for sur-
25 face transportation projects.

1 “(b) MEASURING PROGRESS.—The Secretary shall
2 establish a comprehensive program to measure progress
3 toward improving and expediting the environmental review
4 process for surface transportation projects. The program
5 shall include, at a minimum—

6 “(1) establishing a comprehensive, consistent
7 set of measurement criteria;

8 “(2) gathering and analyzing data to assess
9 performance based on the established criteria; and

10 “(3) publicly releasing the results of the per-
11 formance measurement studies on an annual basis.

12 “(c) ANALYZING CAUSES OF DELAY.—The Secretary
13 shall establish a comprehensive program to identify and
14 evaluate factors contributing to delays in the environ-
15 mental review process for surface transportation projects.
16 The program shall include, at a minimum—

17 “(1) developing a master list of all regulatory
18 requirements applicable to the environmental review
19 process for surface transportation projects;

20 “(2) monitoring the application of such regu-
21 latory requirements on a nationwide basis, in order
22 to identify emerging trends that may tend to in-
23 crease the compliance burdens associated with such
24 requirements; and

1 “(3) publicly releasing an annual report that
2 analyzes the principal causes of delay affecting the
3 environmental review process for surface transpor-
4 tation projects and recommends specific actions to
5 be taken (including legislative and regulatory
6 changes, if appropriate) in order to address those
7 causes of delay.”.

8 (b) CONFORMING AMENDMENT.—The analysis for
9 such chapter is amended by inserting after the item relat-
10 ing to section 320 the following:

 “321. Program management and oversight.”.

11 **SEC. 106. FEDERAL PROGRAM FOR STATE ENVIRON-**
12 **MENTAL REVIEW.**

13 (a) IN GENERAL.—Chapter 3 of title 23, United
14 States Code, is amended by inserting after section 324 the
15 following:

16 **“§ 325. Federal program for State environmental re-**
17 **view**

18 “(a) IN GENERAL.—Not later than 1 year after the
19 date of enactment of the Expediting Project Delivery to
20 Improve Transportation and the Environment Act, the
21 Secretary of Transportation, in cooperation with the head
22 of any other interested Federal agency, shall establish and
23 begin implementation of a program under which States
24 will carry out the responsibilities of Federal agencies with

1 respect to 1 or more highway or transit projects under
2 1 or more of the following:

3 “(1) Section 303 of title 49.

4 “(2) The Federal Water Pollution Control Act
5 (33 U.S.C. 1251 et seq.).

6 “(3) The National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.).

8 “(4) Section 307 of this title.

9 “(5) Any other provision of Federal law requir-
10 ing, with respect to such project, an environmental
11 assessment or environmental impact statement or
12 any other environmental review, analysis, opinion, or
13 issuance of an environmental permit, license, or ap-
14 proval.

15 “(b) STATE ASSUMPTION OF RESPONSIBILITY.—The
16 program established under this section shall provide that
17 the head of a Federal agency (including the Secretary of
18 Transportation) with any responsibility with respect to a
19 highway project under a law referred to in subsection (a)
20 shall accept the application of a State within the bound-
21 aries of which the project will be carried out for authority
22 of the State to assume that responsibility if the head of
23 the State agency having jurisdiction over matters relating
24 to that responsibility agrees, in writing and in a form ac-
25 ceptable to the head of the Federal agency to carry out

1 that responsibility subject to the same procedural and sub-
2 stantive requirements as would be required if that respon-
3 sibility was carried out by the head of the Federal agency.
4 The district courts of the United States shall have exclu-
5 sive jurisdiction over an action against a State for failure
6 to carry out that responsibility.

7 “(c) EFFECT OF ASSUMPTION OF RESPONSI-
8 BILITY.—Approval of a State’s assumption of a responsi-
9 bility with respect to the highway project under this sec-
10 tion and substantial compliance by the State with terms
11 of its agreement to carry out that responsibility shall con-
12 stitute the carrying out of that responsibility for the
13 project for the purposes of all Federal law.

14 “(d) OVERSIGHT.—For each State participating in
15 the program under this section through an agency of the
16 State assuming a responsibility under this section, the
17 Secretary, in cooperation with the head of the Federal
18 agency for which the responsibility is being assumed, shall
19 conduct quarterly audits in the first year of such partici-
20 pation, and annual audits every year thereafter, to ensure
21 that the State is complying with the State’s agreement
22 relating to assumption of the responsibility.

23 “(e) TERMINATION.—The head of a Federal agency
24 for which a responsibility is assumed by a State agency
25 under this section may terminate the participation of any

1 State agency in the program under this section if the head
 2 of the Federal agency, in cooperation with the Council on
 3 Environmental Quality, finds that the State agency is not
 4 complying with the State’s agreement under this sub-
 5 section. A termination shall only occur if the head of the
 6 State agency is notified of the plan and given 180 days
 7 to correct State agency activities and does not correct such
 8 activities to the satisfaction of the head of the Federal
 9 agency.

10 “(f) REPORT TO CONGRESS.—The Secretary and
 11 Council on Environmental Quality shall transmit to Con-
 12 gress annual reports on the program being carried out
 13 under this section.”.

14 (b) CLERICAL AMENDMENT.—The analysis for such
 15 chapter is amended by inserting after the item relating
 16 to section 324 the following:

“325. Federal program for State environmental review.”.

17 **TITLE II—IMPROVING TRANSIT**
 18 **PROGRAM DELIVERY**

19 **SEC. 201. ELIMINATING DUPLICATION IN COMPLIANCE RE-**
 20 **QUIREMENTS FOR ALCOHOL AND CON-**
 21 **TROLLED SUBSTANCE TESTING.**

22 (a) MASS TRANSPORTATION DEFINED.—Section
 23 5331(a)(3) of title 49, United States Code, is amended
 24 by inserting before the period at the end the following:

1 “, or sections 2303a, 7101(i), and 7302(e) of title 46,
2 United States Code”.

3 (b) ELIMINATION OF DUAL TESTING PROGRAMS.—
4 Section 5331 of such title is amended by adding at the
5 end the following:

6 “(h) ELIMINATION OF DUAL TESTING PROGRAMS.—
7 If the Secretary determines that an employee is subject
8 to a test for the use of alcohol or a controlled substance
9 under this section and section 20140 or 31306 of this title
10 or section 2303a, 7101(i), or 7302(e) of title 46 and that
11 the testing is covered adequately under both this section
12 and under such other section, the Secretary shall take
13 such action as may be necessary to ensure that the em-
14 ployee is only subject to the testing programs under this
15 section or such other section, as the Secretary may des-
16 ignate. For purposes of this subsection, testing under this
17 section or any other section includes testing under a regu-
18 lation prescribed under this section or such other sec-
19 tion.”.

20 **SEC. 202. VERY SMALL TRANSIT OPERATOR OPTION FOR**
21 **LOWER COST COMPLIANCE REQUIREMENTS**
22 **FOR ALCOHOL AND CONTROLLED SUB-**
23 **STANCE TESTING.**

24 Section 5331(b)(1) of title 49, United States Code,
25 is amended by adding at the end the following:

1 “(C) SMALL OPERATOR.—Upon application
2 of an entity carrying out mass transportation
3 operations described in subparagraph (A) with
4 a fleet of 5 or less motor vehicles in revenue
5 service, the Secretary may exempt such entity
6 from this subsection if the Secretary determines
7 that the exemption would not adversely affect
8 safety.”.

9 **SEC. 203. JOB ACCESS AND REVERSE COMMUTE GRANTS**
10 **REQUIREMENTS.**

11 Section 3037(j) of the Transportation Equity Act for
12 the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391)
13 is amended to read as follows:

14 “(j) GRANT REQUIREMENTS.—A grant under this
15 section to—

16 “(1) a public body receiving assistance under
17 section 5307, 5310, or 5311 of title 49, United
18 States Code, shall be subject to the terms and condi-
19 tions of that section; and

20 “(2) any other entity shall be subject to such
21 terms and conditions as the Secretary determines
22 appropriate.”.

1 **SEC. 204. GRANT TERMS AND CONDITIONS FOR BUSES AND**
2 **BUS-RELATED FACILITIES, FOR GRANTS**
3 **MADE TO RURAL PROVIDERS AND FOR EL-**
4 **DERLY AND DISABLED TRANSIT SERVICES.**

5 Section 5309(a) of title 49, United States Code, is
6 amended—

7 (1) by striking “(1) The Secretary of Transpor-
8 tation may” and inserting the following:

9 “(1) PURPOSE OF GRANTS AND LOANS.—The
10 Secretary of Transportation may”;

11 (2) by striking “(2) The Secretary of Transpor-
12 tation shall” and inserting the following:

13 “(2) TERMS, CONDITIONS, AND REQUIRE-
14 MENTS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraphs (B) and (C), the Secretary
17 shall”; and

18 (3) by adding at the end of paragraph (2) the
19 following:

20 “(B) SPECIAL RULES FOR CERTAIN BUS
21 RECIPIENTS AND SUBRECIPIENTS.—A grant of
22 funds allocated under subsection (m)(1)(C) to a
23 recipient or subrecipient in an area other than
24 an urbanized area shall be subject to the same
25 terms and conditions as a subrecipient of a
26 grant under section 5311. A grant of funds al-

1 located under subsection (m)(1)(C) to a sub-
2 recipient of a grant under section 5310 shall be
3 subject to the same terms and conditions as
4 subrecipients of grants under that section.”.

5 **SEC. 205. GRANT TERMS AND CONDITIONS FOR BUSES AND**
6 **BUS-RELATED FACILITIES, FOR GRANTS**
7 **MADE TO PRIVATE TRANSIT PROVIDERS.**

8 Section 5309(a)(2) of title 49, United States Code,
9 is further amended by adding at the end the following:

10 “(B) SPECIAL RULES FOR CERTAIN BUSI-
11 NESS ENTITIES.—A grant of funds allocated
12 under subsection (m)(1)(C) to a business entity
13 that is a subrecipient of a grant under section
14 5310 or 5311 shall be subject to the same
15 terms and conditions as subrecipients of grants
16 under that section.”.

17 **SEC. 206. GSA TRANSIT BUS PURCHASING PILOT PROGRAM.**

18 (a) LARGE TRANSIT BUS DEFINED.—In this section
19 the term “large transit bus” means—

20 (1) a bus characterized by an elevated pas-
21 senger deck located over a baggage compartment;

22 (2) a heavy-duty transit bus as defined in the
23 American Public Transportation Association Stand-
24 ard Procurement Guidelines-Specifications dated
25 March 25, 1999, and July 3, 2001; and

1 (3) a bus referenced in the General Services
2 Administration solicitation FFAH-B1-002272-N.

3 (b) IN GENERAL.—The Secretary of Transportation
4 shall carry out a program (referred to in this section as
5 the “program”) to facilitate and accelerate the immediate
6 procurement through existing, modified, or new sources of
7 supply of the General Services Administration of large
8 transit buses by State, local, and regional transportation
9 authorities that are recipients of financial assistance from
10 the Federal Transit Administration, except for grantees
11 of funds under section 3038 of the Transportation Equity
12 Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat.
13 392–393).

14 (c) ADMINISTRATION.—For the period beginning on
15 the date of enactment of this Act and ending on December
16 31, 2007, the Secretary, in consultation and cooperation
17 with the Administrator of General Services, shall admin-
18 ister the program under this section.

19 (d) ESTABLISHMENT OF MULTIPLE AWARD SCHED-
20 ULE BY GSA.—During the period beginning on the 90th
21 day following the date of enactment of this Act and ending
22 on December 31, 2007, the Secretary, with assistance
23 from the Administrator of General Services, shall establish
24 and publish a multiple award schedule for large transit
25 buses which shall permit Federal agencies and State, re-

1 gional, and local transportation authorities that are recipi-
2 ents of financial assistance from the Federal Transit Ad-
3 ministration to acquire the buses under those schedules
4 with such assistance.

5 (e) REOPENING OF GENERAL SERVICES ADMINIS-
6 TRATION SOLICITATION.—Notwithstanding any other pro-
7 vision of law, the Administrator shall immediately reopen
8 the General Services Administration Solicitation FFAH–
9 B1–002272–N to all qualified large transit bus manufac-
10 turing companies to bid for contracts to sell such buses
11 to State, local, and regional transportation authorities
12 that are recipients of Federal Transit Administration fi-
13 nancial assistance.

14 (f) MODIFICATIONS OF EXISTING GSA CON-
15 TRACTS.—Notwithstanding any other provision of law, the
16 Administrator shall immediately allow large transit bus
17 manufacturing companies who have contracts awarded by
18 the General Services Administration under Solicitation
19 FFAH–B1–002272–N before the date of enactment of
20 this Act to modify or restructure their bids incorporated
21 in such contracts to respond to prospective sales of large
22 transit buses to State, local, and regional transportation
23 authorities that are recipients of Federal Transit Adminis-
24 tration financial assistance.

1 (g) AUTHORITY TO PURCHASE FROM EXISTING AND
2 NEW CONTRACTS.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law, State, local, and regional transpor-
5 tation authorities that are recipients of Federal
6 Transit Administration financial assistance are au-
7 thORIZED to purchase large transit buses under—

8 (A) contracts awarded by the General
9 Services Administration under Solicitation
10 FFAH-B1-002272-N before to the date of en-
11 actment of this Act; and

12 (B) contracts described in subparagraph
13 (A) as modified pursuant to subsection (f).

14 (2) MORATORIUM.—The authority to purchase
15 buses under this subsection shall take effect on the
16 90th day following the date of enactment of this Act.

17 (h) COMPLIANCE WITH OTHER LAWS.—This section
18 shall be carried out in accordance with all existing Federal
19 transit laws and requirements.

20 (i) REPORTS.—

21 (1) IN GENERAL.—Not later than March 31,
22 2003, and annually thereafter, the Secretary shall
23 transmit, in writing, to the Committee on Banking,
24 Housing, and Urban Affairs of the Senate and the
25 Committee on Transportation and Infrastructure of

1 the House of Representatives a report on the results
2 of the program under this section, together with rec-
3 ommendations on potential improvements to the pro-
4 gram under this section and whether the program
5 should be expanded to cover buses other than large
6 transit buses.

7 (2) CONTENTS.—The report shall describe, with
8 specificity—

9 (A) all measures being taken to accelerate
10 the processes authorized under this section, in-
11 cluding estimates of the effects of this section;

12 (B) job creation and retention in the bus
13 and bus manufacturing industries as a result of
14 the program under this section;

15 (C) bus manufacturing economic growth in
16 those States and localities that have partici-
17 pated in the program;

18 (D) the effect of the program on the length
19 of the procurement process required for delivery
20 of buses; and

21 (E) the cost savings, if any, to transit au-
22 thorities and to the Federal Government result-
23 ing from implementation of the program.

○