

In the Senate of the United States,

May 19, 2004.

Resolved, That the bill from the House of Representatives (H.R. 3550) entitled “An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Safe, Accountable, Flexible, and Efficient Transportation*

4 *Equity Act of 2004”.*

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

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

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Sec. 1104. Equity bonus programs.
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Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.
Sec. 1206. State-by-State comparison of highway construction costs.

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- Sec. 1301. Federal share.*
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
Sec. 1306. State infrastructure banks.
Sec. 1307. Public-private partnerships pilot program.
Sec. 1308. Wagering.

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Sec. 1403. License suspension.
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Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Identity authentication standards.
Sec. 1410. Open container requirements.

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- Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.*
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- Sec. 1522. Planning capacity building initiative.*

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- Sec. 6103. Level of obligation limitations.*

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 7001. Reimbursement of certain transportation costs incurred by members of the United States Armed Forces on rest and recuperation leave.*

TITLE VIII—SOLID WASTE DISPOSAL

- Sec. 8001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.*
- Sec. 8002. Use of granular mine tailings.*

1 SEC. 2. GENERAL DEFINITIONS.

2*In this Act:*

3(1) *DEPARTMENT.*—*The term “Department”*

4*means the Department of Transportation.*

5(2) *SECRETARY.*—*The term “Secretary” means*

6*the Secretary of Transportation.*

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

2 *Section 101 of title 23, United States Code, is amended*
3 *by striking subsection (a) and inserting the following:*

4 *“(a) DEFINITIONS.—In this title:*

5 *“(1) APPORTIONMENT.—The term ‘apportion-*
6 *ment’ includes an unexpended apportionment made*
7 *under a law enacted before the date of enactment of*
8 *the Safe, Accountable, Flexible, and Efficient Trans-*
9 *portation Equity Act of 2004.*

10 *“(2) CARPOOL PROJECT.—*

11 *“(A) IN GENERAL.—The term ‘carpool*
12 *project’ means any project to encourage the use*
13 *of carpools and vanpools.*

14 *“(B) INCLUSIONS.—The term ‘carpool*
15 *project’ includes a project—*

16 *“(i) to provide carpooling opportuni-*
17 *ties to the elderly and individuals with dis-*
18 *abilities;*

19 *“(ii) to develop and implement a sys-*
20 *tem for locating potential riders and in-*
21 *forming the riders of carpool opportunities;*

22 *“(iii) to acquire vehicles for carpool*
23 *use;*

24 *“(iv) to designate highway lanes as*
25 *preferential carpool highway lanes;*

1 “(v) to provide carpool-related traffic
2 control devices; and

3 “(vi) to designate facilities for use for
4 preferential parking for carpools.

5 “(3) CONSTRUCTION.—

6 “(A) IN GENERAL.—The term ‘construction’
7 means the supervision, inspection, and actual
8 building of, and incurring of all costs incidental
9 to the construction or reconstruction of a high-
10 way, including bond costs and other costs relat-
11 ing to the issuance in accordance with section
12 122 of bonds or other debt financing instruments
13 and costs incurred by the State in performing
14 Federal-aid project related audits that directly
15 benefit the Federal-aid highway program.

16 “(B) INCLUSIONS.—The term ‘construction’
17 includes—

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

23 “(ii) resurfacing, restoration, and re-
24 habilitation;

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

1 “(iv) relocation assistance, acquisition
2 of replacement housing sites, and acquisi-
3 tion and rehabilitation, relocation, and con-
4 struction of replacement housing;

5 “(v) elimination of hazards of railway
6 grade crossings;

7 “(vi) elimination of roadside obstacles;

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

10 “(I) grade separation of intersec-
11 tions;

12 “(II) widening of lanes;

13 “(III) channelization of traffic;

14 “(IV) traffic control systems; and

15 “(V) passenger loading and un-
16 loading areas;

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

20 “(I) scales (fixed and portable);

21 “(II) scale pits;

22 “(III) scale installation; and

23 “(IV) scale houses;

24 “(ix) improvements directly relating to
25 securing transportation infrastructures for

1 *detection, preparedness, response, and recov-*
2 *ery;*

3 “*(x) operating costs relating to traffic*
4 *monitoring, management, and control;*

5 “*(xi) operational improvements; and*

6 “*(xii) transportation system manage-*
7 *ment and operations.*

8 “(4) COUNTY.—*The term ‘county’ includes—*

9 “*(A) a corresponding unit of government*
10 *under any other name in a State that does not*
11 *have county organizations; and*

12 “*(B) in those States in which the county*
13 *government does not have jurisdiction over high-*
14 *ways, any local government unit vested with ju-*
15 *risdiction over local highways.*

16 “(5) FEDERAL-AID HIGHWAY.—

17 “*(A) IN GENERAL.—The term ‘Federal-aid*
18 *highway’ means a highway eligible for assistance*
19 *under this chapter.*

20 “*(B) EXCLUSIONS.—The term ‘Federal-aid*
21 *highway’ does not include a highway classified*
22 *as a local road or rural minor collector.*

23 “(6) FEDERAL-AID SYSTEM.—*The term ‘Federal-*
24 *aid system’ means any of the Federal-aid highway*
25 *systems described in section 103.*

1 “(7) *FEDERAL LANDS HIGHWAY*.—*The term*
2 *‘Federal lands highway’ means—*

3 “(A) *a forest highway;*

4 “(B) *a recreation road;*

5 “(C) *a public Forest Service road;*

6 “(D) *a park road;*

7 “(E) *a parkway;*

8 “(F) *a refuge road;*

9 “(G) *an Indian reservation road; and*

10 “(H) *a public lands highway.*

11 “(8) *FOREST HIGHWAY*.—*The term ‘forest high-*
12 *way’ means a forest road that is—*

13 “(A) *under the jurisdiction of, and main-*
14 *tained by, a public authority; and*

15 “(B) *is open to public travel.*

16 “(9) *FOREST ROAD OR TRAIL*.—

17 “(A) *IN GENERAL*.—*The term ‘forest road or*
18 *trail’ means a road or trail wholly or partly*
19 *within, or adjacent to, and serving National*
20 *Forest System land that is necessary for the pro-*
21 *tection, administration, use, and development of*
22 *the resources of that land.*

23 “(B) *INCLUSIONS*.—*The term ‘forest road or*
24 *trail’ includes—*

25 “(i) *a classified forest road;*

1 “(ii) an unclassified forest road;

2 “(iii) a temporary forest road; and

3 “(iv) a public forest service road.

4 “(10) *FREIGHT TRANSPORTATION GATEWAY*.—

5 “(A) *IN GENERAL*.—*The term ‘freight trans-*
6 *portation gateway’ means a nationally or re-*
7 *gionally significant transportation port of entry*
8 *or hub for domestic and global trade or military*
9 *mobilization.*

10 “(B) *INCLUSIONS*.—*The term ‘freight trans-*
11 *portation gateway’ includes freight intermodal*
12 *and Strategic Highway Network connections that*
13 *provide access to and from a port or hub de-*
14 *scribed in subparagraph (A).*

15 “(11) *HIGHWAY*.—*The term ‘highway’ in-*
16 *cludes—*

17 “(A) *a road, street, and parkway;*

18 “(B) *a right-of-way, bridge, railroad-high-*
19 *way crossing, tunnel, drainage structure, sign,*
20 *guardrail, and protective structure, in connec-*
21 *tion with a highway; and*

22 “(C) *a portion of any interstate or inter-*
23 *national bridge or tunnel (including the ap-*
24 *proaches to the interstate or international bridge*
25 *or tunnel, and such transportation facilities as*

1 *may be required by the United States Customs*
2 *Service and the Bureau of Citizenship and Im-*
3 *migration Services in connection with the oper-*
4 *ation of an international bridge or tunnel), the*
5 *cost of which is assumed by a State transpor-*
6 *tation department.*

7 “(12) *HIGHWAY SAFETY IMPROVEMENT*
8 *PROJECT.—The term ‘highway safety improvement*
9 *project’ means a project that meets the requirements*
10 *of section 148.*

11 “(13) *INDIAN RESERVATION ROAD.—*

12 “(A) *IN GENERAL.—The term ‘Indian res-*
13 *ervation road’ means a public road that is lo-*
14 *cated within or provides access to an area de-*
15 *scribed in subparagraph (B) on which or in*
16 *which reside Indians or Alaskan Natives that, as*
17 *determined by the Secretary of the Interior, are*
18 *eligible for services generally available to Indians*
19 *under Federal laws specifically applicable to In-*
20 *dians.*

21 “(B) *AREAS.—The areas referred to in sub-*
22 *paragraph (A) are—*

23 “(i) *an Indian reservation;*

24 “(ii) *Indian trust land or restricted*
25 *Indian land that is not subject to fee title*

1 *alienation without the approval of the Fed-*
2 *eral Government; and*

3 “*(iii) an Indian or Alaska Native vil-*
4 *lage, group, or community.*”

5 “(14) *INTERSTATE SYSTEM.*—*The term ‘Inter-*
6 *state System’ means the Dwight D. Eisenhower Na-*
7 *tional System of Interstate and Defense Highways de-*
8 *scribed in section 103(c).*”

9 “(15) *MAINTENANCE.*—

10 “*(A) IN GENERAL.*—*The term ‘maintenance’*
11 *means the preservation of a highway.*”

12 “*(B) INCLUSIONS.*—*The term ‘maintenance’*
13 *includes the preservation of—*

14 “*(i) the surface, shoulders, roadsides,*
15 *and structures of a highway; and*

16 “*(ii) such traffic-control devices as are*
17 *necessary for safe, secure, and efficient use*
18 *of a highway.*”

19 “(16) *MAINTENANCE AREA.*—*The term ‘mainte-*
20 *nance area’ means an area that was designated as a*
21 *nonattainment area, but was later redesignated by the*
22 *Administrator of the Environmental Protection Agen-*
23 *cy as an attainment area, under section 107(d) of the*
24 *Clean Air Act (42 U.S.C. 7407(d)).*”

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

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

8 “(19) *OPERATING COSTS FOR TRAFFIC MONI-*
9 *TORING, MANAGEMENT, AND CONTROL.*—*The term ‘op-*
10 *erating costs for traffic monitoring, management, and*
11 *control’ includes—*

12 “(A) *labor costs;*

13 “(B) *administrative costs;*

14 “(C) *costs of utilities and rent;*

15 “(D) *costs incurred by transportation agen-*
16 *cies for technology to monitor critical transpor-*
17 *tation infrastructure for security purposes; and*

18 “(E) *other costs associated with transpor-*
19 *tation systems management and operations and*
20 *the continuous operation of traffic control, such*
21 *as—*

22 “(i) *an integrated traffic control sys-*
23 *tem;*

24 “(ii) *an incident management pro-*
25 *gram; and*

1 “(iii) a traffic control center.

2 “(20) OPERATIONAL IMPROVEMENT.—

3 “(A) IN GENERAL.—The term ‘operational
4 improvement’ means—

5 “(i) a capital improvement for instal-
6 lation or implementation of—

7 “(I) a transportation system
8 management and operations program;

9 “(II) traffic and transportation
10 security surveillance and control equip-
11 ment;

12 “(III) a computerized signal sys-
13 tem;

14 “(IV) a motorist information sys-
15 tem;

16 “(V) an integrated traffic control
17 system;

18 “(VI) an incident management
19 program;

20 “(VII) equipment and programs
21 for transportation response to man-
22 made and natural disasters; or

23 “(VIII) a transportation demand
24 management facility, strategy, or pro-
25 gram; and

1 “(ii) such other capital improvements
2 to a public road as the Secretary may des-
3 ignate by regulation.

4 “(B) *EXCLUSIONS.*—The term ‘operational
5 improvement’ does not include—

6 “(i) a resurfacing, restorative, or reha-
7 bilitative improvement;

8 “(ii) construction of an additional
9 lane, interchange, or grade separation; or

10 “(iii) construction of a new facility on
11 a new location.

12 “(21) *PARK ROAD.*—The term ‘park road’ means
13 a public road (including a bridge built primarily for
14 pedestrian use, but with capacity for use by emer-
15 gency vehicles) that is located within, or provides ac-
16 cess to, an area in the National Park System with
17 title and maintenance responsibilities vested in the
18 United States.

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

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

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

1 “(i) if the context so implies, a particular
2 portion of a highway so constructed; and

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

5 “(24) *PROJECT AGREEMENT*.—The term ‘project
6 agreement’ means the formal instrument to be exe-
7 cuted by the Secretary and recipient of funds under
8 this title.

9 “(25) *PUBLIC AUTHORITY*.—The term ‘public au-
10 thority’ means a Federal, State, county, town, or
11 township, Indian tribe, municipal or other local gov-
12 ernment or instrumentality with authority to finance,
13 build, operate, or maintain toll or toll-free facilities.

14 “(26) *PUBLIC FOREST SERVICE ROAD*.—The term
15 ‘public Forest Service road’ means a classified forest
16 road—

17 “(A) that is open to public travel;

18 “(B) for which title and maintenance re-
19 sponsibility is vested in the Federal Government;
20 and

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

23 “(27) *PUBLIC LANDS DEVELOPMENT ROADS AND*
24 *TRAILS*.—The term ‘public lands development roads
25 and trails’ means roads and trails that the Secretary

1 *of the Interior determines are of primary importance*
2 *for the development, protection, administration, and*
3 *use of public lands and resources under the control of*
4 *the Secretary of the Interior.*

5 “(28) *PUBLIC LANDS HIGHWAY.*—*The term ‘pub-*
6 *lic lands highway’ means—*

7 “(A) *a forest road that is—*

8 “(i) *under the jurisdiction of, and*
9 *maintained by, a public authority; and*

10 “(ii) *open to public travel; and*

11 “(B) *any highway through unappropriated*
12 *or unreserved public land, nontaxable Indian*
13 *land, or any other Federal reservation (including*
14 *a main highway through such land or reserva-*
15 *tion that is on the Federal-aid system) that is—*

16 “(i) *under the jurisdiction of, and*
17 *maintained by, a public authority; and*

18 “(ii) *open to public travel.*

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

21 “(A) *under the jurisdiction of, and main-*
22 *tained by, a public authority; and*

23 “(B) *open to public travel.*

24 “(30) *RECREATIONAL ROAD.*—*The term ‘rec-*
25 *reational road’ means a public road—*

1 “(A) that provides access to a museum, lake,
2 reservoir, visitors center, gateway to a major
3 wilderness area, public use area, or recreational
4 or historic site; and

5 “(B) for which title is vested in the Federal
6 Government.

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

9 “(A) that provides access to or within a
10 unit of the National Wildlife Refuge System or
11 a national fish hatchery; and

12 “(B) for which title and maintenance re-
13 sponsibility is vested in the United States Gov-
14 ernment.

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

18 “(33) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of Transportation.

20 “(34) STATE.—The term ‘State’ means—

21 “(A) a State;

22 “(B) the District of Columbia; and

23 “(C) the Commonwealth of Puerto Rico.

24 “(35) STATE FUNDS.—The term ‘State funds’ in-
25 cludes funds that are—

1 “(A) raised under the authority of the State
2 (or any political or other subdivision of a State);
3 and

4 “(B) made available for expenditure under
5 the direct control of the State transportation de-
6 partment.

7 “(36) *STATE TRANSPORTATION DEPARTMENT.*—
8 The term ‘State transportation department’ means
9 the department, agency, commission, board, or official
10 of any State charged by the laws of the State with the
11 responsibility for highway construction.

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

21 “(38) *TRANSPORTATION ENHANCEMENT ACTIV-*
22 *ITY.*—The term ‘transportation enhancement activity’
23 means, with respect to any project or the area to be
24 served by the project, any of the following activities
25 as the activities relate to surface transportation:

1 “(A) Provision of facilities for pedestrians
2 and bicycles.

3 “(B) Provision of safety and educational
4 activities for pedestrians and bicyclists.

5 “(C) Acquisition of scenic easements and
6 scenic or historic sites (including historic battle-
7 fields).

8 “(D) Scenic or historic highway programs
9 (including the provision of tourist and welcome
10 center facilities).

11 “(E) Landscaping and other scenic beautifi-
12 cation.

13 “(F) Historic preservation.

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

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

21 “(I) Control and removal of outdoor adver-
22 tising.

23 “(J) Archaeological planning and research.

24 “(K) Environmental mitigation—

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

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

6 “(L) Establishment of transportation muse-
7 ums.

8 “(39) TRANSPORTATION SYSTEMS MANAGEMENT
9 AND OPERATIONS.—

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

19 “(B) INCLUSIONS.—The term ‘transportation
20 systems management and operations’ in-
21 cludes—

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

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

13 “(40) URBAN AREA.—The term ‘urban area’
14 means—

15 “(A) an urbanized area (or, in the case of
16 an urbanized area encompassing more than 1
17 State, the portion of the urbanized area in each
18 State); and

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

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

22 “(ii) is not located within any urban-
23 ized area; and

24 “(iii) is located within boundaries
25 that—

1 “(I) are fixed cooperatively by re-
2 sponsible State and local officials, sub-
3 ject to approval by the Secretary; and

4 “(II) encompass, at a minimum,
5 the entire urban place designated by
6 the Bureau of the Census (except in the
7 case of cities in the State of Maine and
8 in the State of New Hampshire).

9 “(41) URBANIZED AREA.—The term ‘urbanized
10 area’ means an area that—

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

12 “(B) is designated by the Bureau of the
13 Census; and

14 “(C) is located within boundaries that—

15 “(i) are fixed cooperatively by respon-
16 sible State and local officials, subject to ap-
17 proval by the Secretary; and

18 “(ii) encompass, at a minimum, the
19 entire urbanized area within a State as des-
20 ignated by the Bureau of the Census.”.

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

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

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

8 (1) *INTERSTATE MAINTENANCE PROGRAM.—For*
9 *the Interstate maintenance program under section*
10 *119 of title 23, United States Code—*

11 (A) *\$5,442,371,792 for fiscal year 2004;*

12 (B) *\$6,425,168,342 for fiscal year 2005;*

13 (C) *\$6,683,176,289 for fiscal year 2006;*

14 (D) *\$6,702,365,186 for fiscal year 2007;*

15 (E) *\$7,036,621,314 for fiscal year 2008;*

16 *and*

17 (F) *\$7,139,130,081 for fiscal year 2009.*

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

21 (A) *\$6,593,922,257 for fiscal year 2004;*

22 (B) *\$7,815,590,130 for fiscal year 2005;*

23 (C) *\$8,125,241,450 for fiscal year 2006;*

24 (D) *\$8,148,531,791 for fiscal year 2007;*

1 (E) \$8,554,231,977 for fiscal year 2008;

2 and

3 (F) \$8,678,591,297 for fiscal year 2009.

4 (3) *BRIDGE PROGRAM.*—For the bridge program
5 under section 144 of that title—

6 (A) \$4,650,754,076 for fiscal year 2004;

7 (B) \$5,507,287,150 for fiscal year 2005;

8 (C) \$5,713,860,644 for fiscal year 2006;

9 (D) \$5,730,266,418 for fiscal year 2007;

10 (E) \$6,016,042,650 for fiscal year 2008;

11 and

12 (F) \$6,103,714,622 for fiscal year 2009.

13 (4) *SURFACE TRANSPORTATION PROGRAM.*—For
14 the surface transportation program under section 133
15 of that title—

16 (A) \$6,877,178,900 for fiscal year 2004;

17 (B) \$8,107,950,527 for fiscal year 2005;

18 (C) \$8,417,741,127 for fiscal year 2006;

19 (D) \$8,441,910,349 for fiscal year 2007;

20 (E) \$8,862,919,976 for fiscal year 2008;

21 and

22 (F) \$8,992,134,975 for fiscal year 2009.

23 (5) *CONGESTION MITIGATION AND AIR QUALITY*
24 *IMPROVEMENT PROGRAM.*—For the congestion mitiga-

1 *tion and air quality improvement program under sec-*
2 *tion 149 of that title—*

3 *(A) \$1,880,092,073 for fiscal year 2004;*

4 *(B) \$2,192,716,180 for fiscal year 2005;*

5 *(C) \$2,270,239,273 for fiscal year 2006;*

6 *(D) \$2,276,757,639 for fiscal year 2007;*

7 *(E) \$2,390,302,660 for fiscal year 2008;*

8 *and*

9 *(F) \$2,425,236,569 for fiscal year 2009.*

10 *(6) HIGHWAY SAFETY IMPROVEMENT PRO-*
11 *GRAM.—For the highway safety improvement pro-*
12 *gram under section 148 of that title—*

13 *(A) \$1,187,426,572 for fiscal year 2004;*

14 *(B) \$1,325,828,388 for fiscal year 2005;*

15 *(C) \$1,377,448,548 for fiscal year 2006;*

16 *(D) \$1,381,403,511 for fiscal year 2007;*

17 *(E) \$1,450,295,996 for fiscal year 2008;*

18 *and*

19 *(F) \$1,471,607,029 for fiscal year 2009.*

20 *(7) APPALACHIAN DEVELOPMENT HIGHWAY SYS-*
21 *TEM PROGRAM.—For the Appalachian development*
22 *highway system program under section 170 of that*
23 *title, \$590,000,000 for each of fiscal years 2004*
24 *through 2009.*

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

5 (9) *FEDERAL LANDS HIGHWAYS PROGRAM.*—

6 (A) *INDIAN RESERVATION ROADS.*—*For In-*
7 *dian reservation roads under section 204 of that*
8 *title—*

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

10 (ii) *\$325,000,000 for fiscal year 2005;*

11 (iii) *\$350,000,000 for fiscal year 2006;*

12 (iv) *\$375,000,000 for fiscal year 2007;*

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

14 *and*

15 (vi) *\$425,000,000 for fiscal year 2009.*

16 (B) *RECREATION ROADS.*—*For recreation*
17 *roads under section 204 of that title, \$50,000,000*
18 *for each of fiscal years 2004 through 2009.*

19 (C) *PARK ROADS AND PARKWAYS.*—*For*
20 *park roads and parkways under section 204 of*
21 *that title—*

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

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

24 *and*

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

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

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

10 (F) SAFETY.—For safety under section 204
11 of that title, \$40,000,000 for each of fiscal years
12 2004 through 2009.

13 (10) MULTISTATE CORRIDOR PROGRAM.—For the
14 multistate corridor program under section 171 of that
15 title—

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

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

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

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

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

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

22 (11) BORDER PLANNING, OPERATIONS, AND
23 TECHNOLOGY PROGRAM.—For the border planning,
24 operations, and technology program under section 172
25 of that title—

- 1 (A) \$112,500,000 for fiscal year 2004;
2 (B) \$135,000,000 for fiscal year 2005;
3 (C) \$157,500,000 for fiscal year 2006;
4 (D) \$180,000,000 for fiscal year 2007;
5 (E) \$202,500,000 for fiscal year 2008; and
6 (F) \$225,000,000 for fiscal year 2009.

7 (12) NATIONAL SCENIC BYWAYS PROGRAM.—For
8 the national scenic byways program under section
9 162 of that title—

- 10 (A) \$34,000,000 for fiscal year 2004;
11 (B) \$35,000,000 for fiscal year 2005;
12 (C) \$36,000,000 for fiscal year 2006;
13 (D) \$37,000,000 for fiscal year 2007; and
14 (E) \$39,000,000 for each of fiscal years
15 2008 and 2009.

16 (13) INFRASTRUCTURE PERFORMANCE AND MAIN-
17 TENANCE PROGRAM.—For carrying out the infrastruc-
18 ture performance and maintenance program under
19 section 139 of that title \$2,000,000,000 for fiscal year
20 2004.

21 (14) CONSTRUCTION OF FERRY BOATS AND
22 FERRY TERMINAL FACILITIES.—For construction of
23 ferry boats and ferry terminal facilities under section
24 147 of that title, \$60,000,000 for each of fiscal years
25 2004 through 2009.

1 (15) *COMMONWEALTH OF PUERTO RICO HIGH-*
2 *WAY PROGRAM.—For the Commonwealth of Puerto*
3 *Rico highway program under section 173 of that*
4 *title—*

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

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

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

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

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

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

11 (16) *PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-*
12 *GRAM.—For the public-private partnerships pilot pro-*
13 *gram under section 109(c)(3) of that title,*
14 *\$10,000,000 for each of fiscal years 2004 through*
15 *2009.*

16 (17) *DENALI ACCESS SYSTEM.—For the Denali*
17 *Access System under section 309 of the Denali Com-*
18 *mission Act of 1998 (42 U.S.C. 3121 note; Public*
19 *Law 105–277), \$30,000,000 for each of fiscal years*
20 *2004 through 2009.*

21 (18) *DELTA REGION TRANSPORTATION*
22 *DEVELOPMENT PROGRAM.—For planning and con-*
23 *struction activities authorized under the Delta Re-*
24 *gional Authority, \$80,000,000 for each of fiscal years*
25 *2004 through 2009.*

1 **SEC. 1102. OBLIGATION CEILING.**

2 (a) *GENERAL LIMITATION.*—Subject to subsections (g)
3 and (h), and notwithstanding any other provision of law,
4 the obligations for Federal-aid highway and highway safety
5 construction programs shall not exceed—

6 (1) \$33,643,326,300 for fiscal year 2004;

7 (2) \$37,900,000,000 for fiscal year 2005;

8 (3) \$39,100,000,000 for each of fiscal years 2006
9 and 2007;

10 (4) \$39,400,000,000 for fiscal year 2008; and

11 (5) \$44,400,000,000 for fiscal year 2009.

12 (b) *EXCEPTIONS.*—The limitations under subsection
13 (a) shall not apply to obligations under or for—

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

15 (2) section 147 of the Surface Transportation As-
16 sistance Act of 1978 (23 U.S.C. 144 note; 92 Stat.
17 2714);

18 (3) section 9 of the Federal-Aid Highway Act of
19 1981 (Public Law 97-134; 95 Stat. 1701);

20 (4) subsections (b) and (j) of section 131 of the
21 Surface Transportation Assistance Act of 1982 (Pub-
22 lic Law 97-424; 96 Stat. 2119);

23 (5) subsections (b) and (c) of section 149 of the
24 Surface Transportation and Uniform Relocation As-
25 sistance Act of 1987 (Public Law 100-17; 101 Stat.
26 198);

1 (6) *sections 1103 through 1108 of the Intermodal*
2 *Surface Transportation Efficiency Act of 1991 (Pub-*
3 *lic Law 102–240; 105 Stat. 2027);*

4 (7) *section 157 of title 23, United States Code*
5 *(as in effect on June 8, 1998);*

6 (8) *section 105 of title 23, United States Code*
7 *(as in effect for fiscal years 1998 through 2003, but*
8 *only in an amount equal to \$639,000,000 for each of*
9 *those fiscal years);*

10 (9) *Federal-aid highway programs for which ob-*
11 *ligation authority was made available under the*
12 *Transportation Equity Act for the 21st Century (Pub-*
13 *lic Law 105–178; 112 Stat. 107) or subsequent public*
14 *laws for multiple years or to remain available until*
15 *used, but only to the extent that the obligation author-*
16 *ity has not lapsed or been used; and*

17 (10) *section 105 of title 23, United States Code*
18 *(but, for each of fiscal years 2004 through 2009, only*
19 *in an amount equal to \$439,000,000 per fiscal year).*

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

22 (1) *shall not distribute obligation authority pro-*
23 *vided by subsection (a) for the fiscal year for—*

1 (A) amounts authorized for administrative
2 expenses and programs by section 104(a) of title
3 23, United States Code;

4 (B) programs funded from the administra-
5 tive takedown authorized by section 104(a)(1) of
6 title 23, United States Code; and

7 (C) amounts authorized for the highway use
8 tax evasion program and the Bureau of Trans-
9 portation Statistics;

10 (2) shall not distribute an amount of obligation
11 authority provided by subsection (a) that is equal to
12 the unobligated balance of amounts made available
13 from the Highway Trust Fund (other than the Mass
14 Transit Account) for Federal-aid highway and high-
15 way safety programs for previous fiscal years the
16 funds for which are allocated by the Secretary;

17 (3) shall determine the ratio that—

18 (A) the obligation authority provided by
19 subsection (a) for the fiscal year, less the aggre-
20 gate of amounts not distributed under para-
21 graphs (1) and (2); bears to

22 (B) the total of the sums authorized to be
23 appropriated for the Federal-aid highway and
24 highway safety construction programs (other
25 than sums authorized to be appropriated for pro-

1 visions of law described in paragraphs (1)
2 through (9) of subsection (b) and sums author-
3 ized to be appropriated for section 105 of title
4 23, United States Code, equal to the amount re-
5 ferred to in subsection (b)(10) for the fiscal
6 year), less the aggregate of the amounts not dis-
7 tributed under paragraphs (1) and (2);

8 (4) shall distribute the obligation authority pro-
9 vided by subsection (a) less the aggregate amounts not
10 distributed under paragraphs (1) and (2), for section
11 14501 of title 40, United States Code, so that the
12 amount of obligation authority available for that sec-
13 tion is equal to the amount determined by multi-
14 plying—

15 (A) the ratio determined under paragraph
16 (3); by

17 (B) the sums authorized to be appropriated
18 for that section for the fiscal year;

19 (5) shall distribute among the States the obliga-
20 tion authority provided by subsection (a), less the ag-
21 gregate amounts not distributed under paragraphs (1)
22 and (2), for each of the programs that are allocated
23 by the Secretary under this Act and title 23, United
24 States Code (other than to programs to which para-
25 graph (1) applies), by multiplying—

1 (A) the ratio determined under paragraph
2 (3); by

3 (B) the amounts authorized to be appro-
4 priated for each such program for the fiscal year;
5 and

6 (6) shall distribute the obligation authority pro-
7 vided by subsection (a), less the aggregate amounts
8 not distributed under paragraphs (1) and (2) and the
9 amounts distributed under paragraphs (4) and (5),
10 for Federal-aid highway and highway safety construc-
11 tion programs (other than the amounts apportioned
12 for the equity bonus program, but only to the extent
13 that the amounts apportioned for the equity bonus
14 program for the fiscal year are greater than
15 \$439,000,000, and the Appalachian development high-
16 way system program) that are apportioned by the
17 Secretary under this Act and title 23, United States
18 Code, in the ratio that—

19 (A) amounts authorized to be appropriated
20 for the programs that are apportioned to each
21 State for the fiscal year; bear to

22 (B) the total of the amounts authorized to
23 be appropriated for the programs that are ap-
24 portioned to all States for the fiscal year.

1 (d) *REDISTRIBUTION OF UNUSED OBLIGATION AU-*
2 *THORITY.*—*Notwithstanding subsection (c), the Secretary*
3 *shall, after August 1 of each of fiscal years 2004 through*
4 *2009—*

5 (1) *revise a distribution of the obligation author-*
6 *ity made available under subsection (c) if an amount*
7 *distributed cannot be obligated during that fiscal*
8 *year; and*

9 (2) *redistribute sufficient amounts to those States*
10 *able to obligate amounts in addition to those pre-*
11 *viously distributed during that fiscal year, giving pri-*
12 *ority to those States having large unobligated bal-*
13 *ances of funds apportioned under sections 104 and*
14 *144 of title 23, United States Code.*

15 (e) *APPLICABILITY OF OBLIGATION LIMITATIONS TO*
16 *TRANSPORTATION RESEARCH PROGRAMS.*—

17 (1) *IN GENERAL.*—*Except as provided in para-*
18 *graph (2), obligation limitations imposed by sub-*
19 *section (a) shall apply to contract authority for trans-*
20 *portation research programs carried out under—*

21 (A) *chapter 5 of title 23, United States*
22 *Code; and*

23 (B) *title II of this Act.*

24 (2) *EXCEPTION.*—*Obligation authority made*
25 *available under paragraph (1) shall—*

1 (A) remain available for a period of 3 fiscal
2 years; and

3 (B) be in addition to the amount of any
4 limitation imposed on obligations for Federal-
5 aid highway and highway safety construction
6 programs for future fiscal years.

7 (f) *REDISTRIBUTION OF CERTAIN AUTHORIZED*
8 *FUNDS.*—

9 (1) *IN GENERAL.*—Not later than 30 days after
10 the date of distribution of obligation authority under
11 subsection (c) for each of fiscal years 2004 through
12 2009, the Secretary shall distribute to the States any
13 funds that—

14 (A) are authorized to be appropriated for
15 the fiscal year for Federal-aid highway pro-
16 grams; and

17 (B) the Secretary determines will not be al-
18 located to the States, and will not be available
19 for obligation, in the fiscal year due to the im-
20 position of any obligation limitation for the fiscal
21 year.

22 (2) *RATIO.*—Funds shall be distributed under
23 paragraph (1) in the same ratio as the distribution
24 of obligation authority under subsection (c)(6).

1 (3) *AVAILABILITY.*—*Funds distributed under*
2 *paragraph (1) shall be available for any purpose de-*
3 *scribed in section 133(b) of title 23, United States*
4 *Code.*

5 (g) *SPECIAL RULE.*—*Obligation authority distributed*
6 *for a fiscal year under subsection (c)(4) for the provision*
7 *specified in subsection (c)(4) shall—*

8 (1) *remain available until used for obligation of*
9 *funds for that provision; and*

10 (2) *be in addition to the amount of any limita-*
11 *tion imposed on obligations for Federal-aid highway*
12 *and highway safety construction programs for future*
13 *fiscal years.*

14 (h) *ADJUSTMENT IN OBLIGATION LIMIT.*—

15 (1) *IN GENERAL.*—*A limitation on obligations*
16 *imposed by subsection (a) for a fiscal year shall be*
17 *adjusted by an amount equal to the amount deter-*
18 *mined in accordance with section 251(b)(1)(B) of the*
19 *Balanced Budget and Emergency Deficit Control Act*
20 *of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.*

21 (2) *DISTRIBUTION.*—*An adjustment under para-*
22 *graph (1) shall be distributed in accordance with this*
23 *section.*

24 (i) *LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-*
25 *TIVE EXPENSES.*—*Notwithstanding any other provision of*

1 *law, the total amount of all obligations under section 104(a)*
2 *of title 23, United States Code, shall not exceed—*

3 (1) \$450,000,000 for fiscal year 2004;

4 (2) \$465,000,000 for fiscal year 2005;

5 (3) \$480,000,000 for fiscal year 2006;

6 (4) \$495,000,000 for fiscal year 2007;

7 (5) \$510,000,000 for fiscal year 2008; and

8 (6) \$525,000,000 for fiscal year 2009.

9 (j) *NATIONAL HIGHWAY SYSTEM COMPONENT.*—*Sec-*
10 *tion 104(b)(1) of title 23, United States Code, is amended*
11 *by striking “\$36,400,000” and insert “\$50,000,000”.*

12 **SEC. 1103. APPORTIONMENTS.**

13 (a) *ADMINISTRATIVE EXPENSES.*—

14 (1) *IN GENERAL.*—*Section 104 of title 23,*
15 *United States Code, is amended by striking subsection*
16 *(a) and inserting the following:*

17 “(a) *ADMINISTRATIVE EXPENSES.*—

18 “(1) *IN GENERAL.*—*There are authorized to be*
19 *appropriated from the Highway Trust Fund (other*
20 *than the Mass Transit Account) to be made available*
21 *to the Secretary of Transportation for administrative*
22 *expenses of the Federal Highway Administration—*

23 “(A) \$450,000,000 for fiscal year 2004;

24 “(B) \$465,000,000 for fiscal year 2005;

25 “(C) \$480,000,000 for fiscal year 2006;

1 “(D) \$495,000,000 for fiscal year 2007;

2 “(E) \$510,000,000 for fiscal year 2008; and

3 “(F) \$525,000,000 for fiscal year 2009.

4 “(2) *PURPOSES.*—*The funds authorized by this*
5 *subsection shall be used—*

6 “(A) *to administer the provisions of law to*
7 *be financed from appropriations for the Federal-*
8 *aid highway program and programs authorized*
9 *under chapter 2; and*

10 “(B) *to make transfers of such sums as the*
11 *Secretary determines to be appropriate to the*
12 *Appalachian Regional Commission for adminis-*
13 *trative activities associated with the Appa-*
14 *lachian development highway system.*

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

18 “(2) *CONFORMING AMENDMENTS.*—*Section 104 of*
19 *title 23, United States Code, is amended—*

20 “(A) *in the matter preceding paragraph (1)*
21 *of subsection (b), by striking “the deduction au-*
22 *thorized by subsection (a) and”;*

23 “(B) *in the first sentence of subsection (e)(1),*
24 *by striking “, and also” and all that follows*
25 *through “this section”;* and

1 (C) in subsection (i), by striking “deducted”
2 and inserting “made available”.

3 (b) *METROPOLITAN PLANNING*.—Section 104(f) of title
4 23, *United States Code*, is amended—

5 (1) by striking paragraph (1) and inserting the
6 following:

7 “(1) *SET-ASIDE*.—On October 1 of each fiscal
8 year, the Secretary shall set aside 1.5 percent of the
9 funds authorized to be appropriated for the Interstate
10 maintenance, national highway system, surface trans-
11 portation, congestion mitigation and air quality im-
12 provement, highway safety improvement, and high-
13 way bridge programs authorized under this title to
14 carry out the requirements of section 134.”;

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

17 (3) in paragraph (3)—

18 (A) by striking “The funds” and inserting
19 the following:

20 “(A) *IN GENERAL*.—The funds”; and

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

23 “(B) *UNUSED FUNDS*.—Any funds that are
24 not used to carry out section 134 may be made
25 available by a metropolitan planning organiza-

1 tion to the State to fund activities under section
2 135.”; and

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

4 “(6) *FEDERAL SHARE*.—Funds apportioned to a
5 State under this subsection shall be matched in ac-
6 cordance with section 120(b) unless the Secretary de-
7 termines that the interests of the Federal-aid highway
8 program would be best served without the match.”.

9 (c) *ALASKA HIGHWAY*.—Section 104(b)(1)(A) of title
10 23, United States Code, is amended by striking “1998
11 through 2002” and inserting “2004 through 2009”.

12 **SEC. 1104. EQUITY BONUS PROGRAM.**

13 (a) *IN GENERAL*.—Section 105 of title 23, United
14 States Code, is amended to read as follows:

15 **“§ 105. Equity bonus program**

16 “(a) *PROGRAM*.—

17 “(1) *IN GENERAL*.—Subject to subsections (c)
18 and (d), for each of fiscal years 2004 through 2009,
19 the Secretary shall allocate among the States amounts
20 sufficient to ensure that no State receives a percentage
21 of the total apportionments for the fiscal year for the
22 programs specified in paragraph (2) that is less than
23 the percentage calculated under subsection (b).

24 “(2) *SPECIFIC PROGRAMS*.—The programs re-
25 ferred to in subsection (a) are—

1 “(A) the Interstate maintenance program
2 under section 119;

3 “(B) the national highway system program
4 under section 103;

5 “(C) the bridge program under section 144;

6 “(D) the surface transportation program
7 under section 133;

8 “(E) the highway safety improvement pro-
9 gram under section 148;

10 “(F) the congestion mitigation and air
11 quality improvement program under section 149;

12 “(G) metropolitan planning programs
13 under section 104(f) (other than planning pro-
14 grams funded by amounts provided under the eq-
15 uity bonus program under this section);

16 “(H) the infrastructure performance and
17 maintenance program under section 139;

18 “(I) the equity bonus program under this
19 section;

20 “(J) the Appalachian development highway
21 system program under subtitle IV of title 40;

22 “(K) the recreational trails program under
23 section 206;

24 “(L) the safe routes to schools program
25 under section 150; and

1 “(M) the rail-highway grade crossing pro-
2 gram under section 130.

3 “(b) STATE PERCENTAGE.—

4 “(1) IN GENERAL.—The percentage referred to in
5 subsection (a) for each State shall be—

6 “(A) 95 percent of the quotient obtained by
7 dividing—

8 “(i) the estimated tax payments attrib-
9 utable to highway users in the State paid
10 into the Highway Trust Fund (other than
11 the Mass Transit Account) in the most re-
12 cent fiscal year for which data are avail-
13 able; by

14 “(ii) the estimated tax payments at-
15 tributable to highway users in all States
16 paid into the Highway Trust Fund (other
17 than the Mass Transit Account) for the fis-
18 cal year; or

19 “(B) for a State with a total population
20 density of less than 20 persons per square mile,
21 as reported in the decennial census conducted by
22 the Federal Government in 2000, a total popu-
23 lation of less than 1,000,000, as reported in that
24 decennial census, or a median household income

1 of less than \$35,000, as reported in that decen-
2 nial census, the greater of—

3 “(i) the percentage under paragraph
4 (1); or

5 “(ii) the average percentage of the
6 State’s share of total apportionments for the
7 period of fiscal years 1998 through 2003 for
8 the programs specified in paragraph (2).

9 “(2) *SPECIFIC PROGRAMS.*—The programs re-
10 ferred to in paragraph (1)(B)(ii) are (as in effect on
11 the day before the date of enactment of the Safe, Ac-
12 countable, Flexible, and Efficient Transportation Eq-
13 uity Act of 2004)—

14 “(A) the Interstate maintenance program
15 under section 119;

16 “(B) the national highway system program
17 under section 103;

18 “(C) the bridge program under section 144;

19 “(D) the surface transportation program
20 under section 133;

21 “(E) the recreational trails program under
22 section 206;

23 “(F) the high priority projects program
24 under section 117;

1 “(G) the minimum guarantee provided
2 under this section;

3 “(H) revenue aligned budget authority
4 amounts provided under section 110;

5 “(I) the congestion mitigation and air qual-
6 ity improvement program under section 149;

7 “(J) the Appalachian development highway
8 system program under subtitle IV of title 40; and

9 “(K) metropolitan planning programs
10 under section 104(f).

11 “(c) *SPECIAL RULES.*—

12 “(1) *MINIMUM COMBINED ALLOCATION.*—For
13 each fiscal year, before making the allocations under
14 subsection (a)(1), the Secretary shall allocate among
15 the States amounts sufficient to ensure that no State
16 receives a combined total of amounts allocated under
17 subsection (a)(1), apportionments for the programs
18 specified in subsection (a)(2), and amounts allocated
19 under this subsection, that is less than 110 percent of
20 the average for fiscal years 1998 through 2003 of the
21 annual apportionments for the State for all programs
22 specified in subsection (b)(2).

23 “(2) *NO NEGATIVE ADJUSTMENT.*—Notwith-
24 standing subsection (d), no negative adjustment shall

1 *be made under subsection (a)(1) to the apportionment*
2 *of any State.*

3 “(3) *MINIMUM SHARE OF TAX PAYMENTS.—Not-*
4 *withstanding subsection (d), for each fiscal year, the*
5 *Secretary shall allocate among the States amounts*
6 *sufficient to ensure that no State receives a percentage*
7 *of apportionments for the fiscal year for the programs*
8 *specified in subsection (a)(2) that is less than 90.5*
9 *percent of the percentage share of the State of esti-*
10 *mated tax payments attributable to highway users in*
11 *the State paid into the Highway Trust Fund (other*
12 *than the Mass Transit Account) in the most recent*
13 *fiscal year for which data are available.*

14 “(d) *LIMITATION ON ADJUSTMENTS.—*

15 “(1) *IN GENERAL.—Except as provided in para-*
16 *graphs (2) and (3) of subsection (c), no State shall re-*
17 *ceive, for any fiscal year, additional amounts under*
18 *subsection (a)(1) if—*

19 “(A) *the total apportionments of the State*
20 *for the fiscal year for the programs specified in*
21 *subsection (a)(2); exceed*

22 “(B) *the percentage of the average, for the*
23 *period of fiscal years 1998 through 2003, of the*
24 *annual apportionments of the State for all pro-*

1 grams specified in subsection (b)(2), as specified
2 in paragraph (2).

3 “(2) *PERCENTAGES.*—*The percentages referred to*
4 *in paragraph (1)(B) are—*

5 “(A) *for fiscal year 2004, 120 percent;*

6 “(B) *for fiscal year 2005, 130 percent;*

7 “(C) *for fiscal year 2006, 134 percent;*

8 “(D) *for fiscal year 2007, 137 percent;*

9 “(E) *for fiscal year 2008, 145 percent; and*

10 “(F) *for fiscal year 2009, 250 percent.*

11 “(e) *PROGRAMMATIC DISTRIBUTION OF FUNDS.*—*The*
12 *Secretary shall apportion the amounts made available*
13 *under this section so that the amount apportioned to each*
14 *State under this section for each program referred to in sub-*
15 *paragraphs (A) through (G) of subsection (a)(2) is equal*
16 *to the amount determined by multiplying the amount to*
17 *be apportioned under this section by the proportion that—*

18 “(1) *the amount of funds apportioned to each*
19 *State for each program referred to in subparagraphs*
20 *(A) through (G) of subsection (a)(2) for a fiscal year;*
21 *bears to*

22 “(2) *the total amount of funds apportioned to*
23 *each State for all such programs for the fiscal year.*

1 “(f) *METRO PLANNING SET ASIDE.*—Notwithstanding
2 *section 104(f), no set aside provided for under that section*
3 *shall apply to funds allocated under this section.*

4 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—There
5 *are authorized to be appropriated from the Highway Trust*
6 *Fund (other than the Mass Transit Account) such sums as*
7 *are necessary to carry out this section for each of fiscal*
8 *years 2004 through 2009.”*

9 (b) *CONFORMING AMENDMENTS.*—

10 (1) *The analysis for subchapter I of chapter 1 of*
11 *title 23, United States Code, is amended by striking*
12 *the item relating to section 105 and inserting the fol-*
13 *lowing:*

“105. *Equity bonus program.*”

14 (2) *Section 104(a)(1) of title 23, United States*
15 *Code, is amended by striking “minimum guarantee”*
16 *and inserting “equity bonus”.*

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

18 *Section 110 of title 23, United States Code, is amend-*
19 *ed—*

20 (1) *in subsection (a)—*

21 (A) *in paragraphs (1) and (2), by striking*
22 *“2000” and inserting “2006”;*

23 (B) *in paragraph (1), by inserting “(as in*
24 *effect on September 30, 2002)” after “(2 U.S.C.*
25 *901(b)(2)(B)(i)(I)(cc))”;* and

1 (C) in paragraph (2)—

2 (i) by striking “If the amount” and in-
3 serting the following:

4 “(A) *IN GENERAL.*—Except as provided in
5 subparagraph (B), if the amount”;

6 (ii) by inserting “(as in effect on Sep-
7 tember 30, 2002)” after “(2 U.S.C.
8 901(b)(1)(B)(ii)(I)(cc)”;

9 (iii) by striking “the succeeding” and
10 inserting “that”;

11 (iv) by striking “and the motor carrier
12 safety grant program”; and

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

14 “(B) *LIMITATION.*—No reduction under sub-
15 paragraph (A) shall be made for a fiscal year if,
16 as of October 1 of the fiscal year, the cash bal-
17 ance in the Highway Trust Fund (other than the
18 Mass Transit Account) exceeds \$6,000,000,000.”;

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

21 “(A) the sums authorized to be appropriated
22 from the Highway Trust Fund (other than the
23 Mass Transit Account) for each of the Federal-
24 aid highway and highway safety construction
25 programs (other than the equity bonus program)

1 *and for which funds are allocated from the High-*
2 *way Trust Fund by the Secretary under this title*
3 *and the Safe, Accountable, Flexible, and Effi-*
4 *cient Transportation Equity Act of 2004; bears*
5 *to”;*

6 (3) *in subsection (c), by inserting “the highway*
7 *safety improvement program,” after “the surface*
8 *transportation program,”; and*

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

10 ***Subtitle B—New Programs***

11 ***SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTEN-*** 12 ***NANCE PROGRAM.***

13 (a) *IN GENERAL.—Subchapter I of chapter 1 of title*
14 23, *United States Code, is amended by inserting after sec-*
15 tion 138 *the following:*

16 ***“§ 139. Infrastructure performance and maintenance*** 17 ***program***

18 “(a) *ESTABLISHMENT.—The Secretary shall establish*
19 and *implement an infrastructure performance and mainte-*
20 *nance program in accordance with this section.*

21 “(b) *ELIGIBLE PROJECTS.—A State may obligate*
22 *funds allocated to the State under this section only for*
23 *projects eligible under the Interstate maintenance program*
24 *under section 119, the National Highway System program*
25 *under section 103, the surface transportation program*

1 *under section 133, the highway safety improvement pro-*
2 *gram under section 148, the highway bridge program under*
3 *section 144, and the congestion mitigation and air quality*
4 *improvement program under section 149 that will—*

5 “(1) *preserve, maintain, or otherwise extend, in*
6 *a cost-effective manner, the useful life of existing high-*
7 *way infrastructure elements; or*

8 “(2) *provide operational improvements (includ-*
9 *ing traffic management and intelligent transportation*
10 *system strategies and limited capacity enhancements)*
11 *at points of recurring highway congestion.*

12 “(c) *PERIOD OF AVAILABILITY.—*

13 “(1) *OBLIGATION WITHIN 180 DAYS.—*

14 “(A) *IN GENERAL.—Funds allocated to a*
15 *State under this section shall be obligated by the*
16 *State not later than 180 days after the date of*
17 *apportionment.*

18 “(B) *UNOBLIGATED FUNDS.—Any amounts*
19 *that remain unobligated at the end of that pe-*
20 *riod shall be allocated in accordance with sub-*
21 *section (d).*

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

23 “(A) *IN GENERAL.—All funds allocated or*
24 *reallocated under this section shall remain avail-*

1 *able for obligation until the last day of the fiscal*
2 *year for which the funds are apportioned.*

3 “(B) *UNOBLIGATED FUNDS.—Any amounts*
4 *allocated that remain unobligated at the end of*
5 *the fiscal year shall lapse.*

6 “(d) *REDISTRIBUTION OF ALLOCATED FUNDS AND OB-*
7 *LIGATION AUTHORITY.—*

8 “(1) *IN GENERAL.—On the date that is 180 days*
9 *after the date of allocation, or as soon thereafter as*
10 *practicable, for each fiscal year, the Secretary shall—*

11 “(A) *withdraw—*

12 “(i) *any funds allocated to a State*
13 *under this section that remain unobligated;*
14 *and*

15 “(ii) *an equal amount of obligation*
16 *authority provided for the use of the funds*
17 *in accordance with section 1101(13) of the*
18 *Safe, Accountable, Flexible, and Efficient*
19 *Transportation Equity Act of 2004; and*

20 “(B) *reallocate the funds and redistribute*
21 *the obligation authority to those States that—*

22 “(i) *have fully obligated all amounts*
23 *allocated under this section for the fiscal*
24 *year; and*

1 “(ii) demonstrate that the State is able
2 to obligate additional amounts for projects
3 eligible under this section before the end of
4 the fiscal year.

5 “(2) *EQUITY BONUS.*—The calculation and dis-
6 tribution of funds under section 105 shall be adjusted
7 as a result of the allocation of funds under this sub-
8 section.

9 “(e) *FEDERAL SHARE PAYABLE.*—The Federal share
10 payable for a project funded under this section shall be de-
11 termined in accordance with section 120.”.

12 (b) *CONFORMING AMENDMENT.*—The analysis for
13 chapter 1 of title 23, United States Code, is amended by
14 adding after the item relating to section 138 the following:
 “139. Infrastructure performance and maintenance program.”.

15 **SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYS-**
16 **TEM.**

17 (a) *DECLARATION OF POLICY.*—Section 101 of title 23,
18 United States Code, is amended—

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

21 “(b) *DECLARATION OF POLICY.*—

22 “(1) *ACCELERATION OF CONSTRUCTION OF FED-*
23 *ERAL-AID HIGHWAY SYSTEMS.*—Congress declares that
24 it is”;

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

3 “(2) *COMPLETION OF INTERSTATE SYSTEM.—*
4 *Congress declares”;* and

5 (3) *by striking the last paragraph and inserting*
6 *the following:*

7 “(3) *TRANSPORTATION NEEDS OF 21ST CEN-*
8 *TURY.—Congress declares that—*

9 “(A) *it is in the national interest to pre-*
10 *serve and enhance the surface transportation sys-*
11 *tem to meet the needs of the United States for the*
12 *21st Century;*

13 “(B) *the current urban and long distance*
14 *personal travel and freight movement demands*
15 *have surpassed the original forecasts and travel*
16 *demand patterns are expected to change;*

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

21 “(D) *among the foremost needs that the sur-*
22 *face transportation system must meet to provide*
23 *for a strong and vigorous national economy are*
24 *safe, efficient, and reliable—*

1 “(i) national and interregional per-
2 sonal mobility (including personal mobility
3 in rural and urban areas) and reduced con-
4 gestion;

5 “(ii) flow of interstate and inter-
6 national commerce and freight transpor-
7 tation; and

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

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

15 “(F) it is in the national interest to seek
16 ways to eliminate barriers to transportation in-
17 vestment created by the current modal structure
18 of transportation financing;

19 “(G) the connection between land use and
20 infrastructure is significant;

21 “(H) transportation should play a signifi-
22 cant role in promoting economic growth, improv-
23 ing the environment, and sustaining the quality
24 of life; and

1 “(I) the Secretary should take appropriate
2 actions to preserve and enhance the Interstate
3 System to meet the needs of the 21st Century.”.

4 (b) NATIONAL SURFACE TRANSPORTATION SYSTEM
5 STUDY.—

6 (1) IN GENERAL.—The Secretary shall—

7 (A) conduct a complete investigation and
8 study of the current condition and future needs
9 of the surface transportation system of the
10 United States, including—

11 (i) the National Highway System;

12 (ii) the Interstate System;

13 (iii) the strategic highway network;

14 (iv) congressional high priority cor-
15 ridors;

16 (v) intermodal connectors;

17 (vi) freight facilities;

18 (vii) navigable waterways;

19 (viii) mass transportation;

20 (ix) freight and intercity passenger
21 rail infrastructure and facilities; and

22 (x) surface access to airports; and

23 (B) develop a conceptual plan, with alter-
24 native approaches, for the future to ensure that
25 the surface transportation system will continue

1 to serve the needs of the United States, including
2 specific recommendations regarding design and
3 operational standards, Federal policies, and leg-
4 islative changes.

5 (2) *SPECIFIC ISSUES.*—In conducting the inves-
6 tigation and study, the Secretary shall specifically
7 address—

8 (A) the current condition and performance
9 of the Interstate System (including the physical
10 condition of bridges and pavements and oper-
11 ational characteristics and performance), relying
12 primarily on existing data sources;

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

16 (C) the expected demographics and business
17 uses that impact the surface transportation sys-
18 tem;

19 (D) the expected use of the surface transpor-
20 tation system, including the effects of changing
21 vehicle types, modes of transportation, fleet size
22 and weights, and traffic volumes;

23 (E) desirable design policies and standards
24 for future improvements of the surface transpor-

1 *tation system, including additional access*
2 *points;*

3 *(F) the identification of urban, rural, na-*
4 *tional, and interregional needs for the surface*
5 *transportation system;*

6 *(G) the potential for expansion, upgrades,*
7 *or other changes to the surface transportation*
8 *system, including—*

9 *(i) deployment of advanced materials*
10 *and intelligent technologies;*

11 *(ii) critical multistate, urban, and*
12 *rural corridors needing capacity, safety,*
13 *and operational enhancements;*

14 *(iii) improvements to intermodal link-*
15 *ages;*

16 *(iv) security and military deployment*
17 *enhancements;*

18 *(v) strategies to enhance asset preserva-*
19 *tion; and*

20 *(vi) implementation strategies;*

21 *(H) the improvement of emergency pre-*
22 *paredness and evacuation using the surface*
23 *transportation system, including—*

24 *(i) examination of the potential use of*
25 *all modes of the surface transportation sys-*

1 *tem in the safe and efficient evacuation of*
2 *citizens during times of emergency;*

3 *(ii) identification of the location of*
4 *critical bottlenecks; and*

5 *(iii) development of strategies to im-*
6 *prove system redundancy, especially in*
7 *areas with a high potential for terrorist at-*
8 *tacks;*

9 *(I) alternatives for addressing environ-*
10 *mental concerns associated with the future devel-*
11 *opment of the surface transportation system;*

12 *(J) the evaluation and assessment of the*
13 *current and future capabilities for conducting*
14 *system-wide real-time performance data collec-*
15 *tion and analysis, traffic monitoring, and trans-*
16 *portation systems operations and management;*
17 *and*

18 *(K) a range of policy and legislative alter-*
19 *natives for addressing future needs for the sur-*
20 *face transportation system, including funding*
21 *needs and potential approaches to provide funds.*

22 *(3) TECHNICAL ADVISORY COMMITTEE.—The*
23 *Secretary shall establish a technical advisory com-*
24 *mittee, in a manner consistent with the Federal Advi-*

1 *sory Committee Act (5 U.S.C. App.), to collect and*
2 *evaluate technical input from—*

3 *(A) the Department of Defense;*

4 *(B) appropriate Federal, State, and local*
5 *officials with responsibility for transportation;*

6 *(C) appropriate State and local elected offi-*
7 *cials;*

8 *(D) transportation and trade associations;*

9 *(E) emergency management officials;*

10 *(F) freight providers;*

11 *(G) the general public; and*

12 *(H) other entities and persons determined*
13 *appropriate by the Secretary to ensure a diverse*
14 *range of views.*

15 *(4) REPORT.—Not later than 4 years after the*
16 *date of enactment of this Act, the Secretary shall sub-*
17 *mit to the Committee on Environment and Public*
18 *Works of the Senate and the Committee on Transpor-*
19 *tation and Infrastructure of the House of Representa-*
20 *tives, and make readily available to the public, a re-*
21 *port on the results of the investigation and study con-*
22 *ducted under this subsection.*

1 **SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS;**
2 **FREIGHT INTERMODAL CONNECTIONS.**

3 (a) *FREIGHT TRANSPORTATION GATEWAYS.*—Chapter
4 3 of title 23, United States Code, is amended by adding
5 at the end the following:

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

7 “(a) *IN GENERAL.*—

8 “(1) *ESTABLISHMENT.*—The Secretary shall es-
9 tablish a freight transportation gateways program to
10 improve productivity, security, and safety of freight
11 transportation gateways, while mitigating congestion
12 and community impacts in the area of the gateways.

13 “(2) *PURPOSES.*—The purposes of the freight
14 transportation gateways program shall be—

15 “(A) to facilitate and support multimodal
16 freight transportation initiatives at the State
17 and local levels in order to improve freight
18 transportation gateways and mitigate the im-
19 pact of congestion on the environment in the
20 area of the gateways;

21 “(B) to provide capital funding to address
22 infrastructure and freight operational needs at
23 freight transportation gateways;

24 “(C) to encourage adoption of new financ-
25 ing strategies to leverage State, local, and pri-

1 *vate investment in freight transportation gate-*
2 *ways;*

3 “(D) *to facilitate access to intermodal*
4 *freight transfer facilities; and*

5 “(E) *to increase economic efficiency by fa-*
6 *cilitating the movement of goods.*

7 “(b) *STATE RESPONSIBILITIES.—*

8 “(1) *PROJECT DEVELOPMENT PROCESS.—Each*
9 *State, in coordination with metropolitan planning*
10 *organizations, shall ensure that intermodal freight*
11 *transportation, trade facilitation, and economic devel-*
12 *opment needs are adequately considered and fully in-*
13 *tegrated into the project development process, includ-*
14 *ing transportation planning through final design and*
15 *construction of freight-related transportation projects.*

16 “(2) *FREIGHT TRANSPORTATION COORDI-*
17 *NATOR.—*

18 “(A) *IN GENERAL.—Each State shall des-*
19 *ignate a freight transportation coordinator.*

20 “(B) *DUTIES.—The coordinator shall—*

21 “(i) *foster public and private sector*
22 *collaboration needed to implement complex*
23 *solutions to freight transportation and*
24 *freight transportation gateway problems,*
25 *including—*

1 “(I) coordination of metropolitan
2 and statewide transportation activities
3 with trade and economic interests;

4 “(II) coordination with other
5 States, agencies, and organizations to
6 find regional solutions to freight trans-
7 portation problems; and

8 “(III) coordination with local of-
9 ficials of the Department of Defense
10 and the Department of Homeland Se-
11 curity, and with other organizations,
12 to develop regional solutions to mili-
13 tary and homeland security transpor-
14 tation needs; and

15 “(ii) promote programs that build pro-
16 fessional capacity to better plan, coordinate,
17 integrate, and understand freight transpor-
18 tation needs for the State.

19 “(c) *INNOVATIVE FINANCE STRATEGIES.*—

20 “(1) *IN GENERAL.*—States and localities are en-
21 couraged to adopt innovative financing strategies for
22 freight transportation gateway improvements, includ-
23 ing—

24 “(A) new user fees;

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

3 “(C) revenue options that incorporate pri-
4 vate sector investment; and

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

7 “(2) *TECHNICAL ASSISTANCE.*—The Secretary
8 shall provide technical assistance to States and local-
9 ities with respect to the strategies.

10 “(d) *INTERMODAL FREIGHT TRANSPORTATION*
11 *PROJECTS.*—

12 “(1) *USE OF SURFACE TRANSPORTATION PRO-*
13 *GRAM FUNDS.*—A State may obligate funds appor-
14 *tioned to the State under section 104(b)(3) for pub-*
15 *licly-owned intermodal freight transportation projects*
16 *that provide community and highway benefits by ad-*
17 *dressing economic, congestion, system reliability, secu-*
18 *rity, safety, or environmental issues associated with*
19 *freight transportation gateways.*

20 “(2) *ELIGIBLE PROJECTS.*—A project eligible for
21 *funding under this section—*

22 “(A) may include publicly-owned inter-
23 *modal freight transfer facilities, access to the fa-*
24 *ilities, and operational improvements for the fa-*
25 *ilities (including capital investment for intel-*

1 *ligent transportation systems), except that*
2 *projects located within the boundaries of port*
3 *terminals shall only include the surface trans-*
4 *portation infrastructure modifications necessary*
5 *to facilitate direct intermodal interchange, trans-*
6 *fer, and access into and out of the port; and*

7 *“(B) may involve the combining of private*
8 *and public funds.”.*

9 *(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PRO-*
10 *GRAM FUNDS.—Section 133(b) of title 23, United States*
11 *Code, is amended by inserting after paragraph (11) the fol-*
12 *lowing:*

13 *“(12) Intermodal freight transportation projects*
14 *in accordance with section 325(d)(2).”.*

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

18 *“(7) FREIGHT INTERMODAL CONNECTIONS TO*
19 *THE NHS.—*

20 *“(A) FUNDING SET-ASIDE.—Of the funds*
21 *apportioned to a State for each fiscal year under*
22 *section 104(b)(1), an amount determined in ac-*
23 *cordance with subparagraph (B) shall only be*
24 *available to the State to be obligated for projects*
25 *on—*

1 “(i) *National Highway System routes*
2 *connecting to intermodal freight terminals*
3 *identified according to criteria specified in*
4 *the report to Congress entitled ‘Pulling To-*
5 *gether: The National Highway System and*
6 *its Connections to Major Intermodal Termi-*
7 *nals’ dated May 24, 1996, referred to in*
8 *paragraph (1), and any modifications to*
9 *the connections that are consistent with*
10 *paragraph (4);*

11 “(ii) *strategic highway network con-*
12 *nectors to strategic military deployment*
13 *ports; and*

14 “(iii) *projects to eliminate railroad*
15 *crossings or make railroad crossing im-*
16 *provements.*

17 “(B) *DETERMINATION OF AMOUNT.—The*
18 *amount of funds for each State for a fiscal year*
19 *that shall be set aside under subparagraph (A)*
20 *shall be equal to the greater of—*

21 “(i) *the product obtained by multi-*
22 *plying—*

23 “(I) *the total amount of funds ap-*
24 *portioned to the State under section*
25 *104(b)(1); by*

1 “(II) the percentage of miles that
2 routes specified in subparagraph (A)
3 constitute of the total miles on the Na-
4 tional Highway System in the State;
5 or

6 “(ii) 2 percent of the annual appor-
7 tionment to the State of funds under
8 104(b)(1).

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

17 “(i) the designated National Highway
18 System intermodal connectors described in
19 subparagraph (A) are in good condition
20 and provide an adequate level of service for
21 military vehicle and civilian commercial
22 vehicle use; and

23 “(ii) significant needs on the des-
24 ignated National Highway System inter-

1 modal connectors are being met or do not
2 exist.”.

3 (d) *FEDERAL SHARE PAYABLE.*—Section 120 of title
4 23, United States Code, is amended by adding at the end
5 the following:

6 “(m) *INCREASED FEDERAL SHARE FOR CONNEC-*
7 *TORS.*—In the case of a project to support a National High-
8 way System intermodal freight connection or strategic high-
9 way network connector to a strategic military deployment
10 port described in section 103(b)(7), except as otherwise pro-
11 vided in section 120, the Federal share of the total cost of
12 the project shall be 90 percent.”.

13 (e) *LENGTH LIMITATIONS.*—Section 31111(e) of title
14 49, United States Code, is amended—

15 (1) by striking “The” and inserting the fol-
16 lowing:

17 “(1) *IN GENERAL.*—The”; and

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

19 “(2) *LENGTH LIMITATIONS.*—In the interests of
20 economic competitiveness, security, and intermodal
21 connectivity, not later than 3 years after the date of
22 enactment of this paragraph, States shall update the
23 list of those qualifying highways to include—

24 “(A) strategic highway network connectors
25 to strategic military deployment ports; and

1 “(B) *National Highway System intermodal*
 2 *freight connections serving military and com-*
 3 *mercial truck traffic going to major intermodal*
 4 *terminals as described in section*
 5 *103(b)(7)(A)(i).”.*

6 (f) *CONFORMING AMENDMENT.*—*The analysis of chap-*
 7 *ter 3 of title 23, United States Code, is amended by adding*
 8 *at the end the following:*

 “325. *Freight transportation gateways.*”.

9 **SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY**
 10 **TERMINAL AND MAINTENANCE FACILITIES;**
 11 **COORDINATION OF FERRY CONSTRUCTION**
 12 **AND MAINTENANCE.**

13 (a) *IN GENERAL.*—*Section 147 of title 23, United*
 14 *States Code, is amended to read as follows:*

15 **“§ 147. Construction of ferry boats and ferry terminal**
 16 **and maintenance facilities; coordination**
 17 **of ferry construction and maintenance**

18 “(a) *CONSTRUCTION OF FERRY BOATS AND FERRY*
 19 *TERMINAL FACILITIES.*—

20 “(1) *IN GENERAL.*—*The Secretary shall carry*
 21 *out a program for construction of ferry boats and*
 22 *ferry terminal facilities in accordance with section*
 23 *129(c).*

24 “(2) *FEDERAL SHARE.*—*The Federal share of the*
 25 *cost of construction of ferry boats and ferry terminals*

1 *and maintenance facilities under this subsection shall*
2 *be 80 percent.*

3 “(3) *ALLOCATION OF FUNDS.—The Secretary*
4 *shall give priority in the allocation of funds under*
5 *this subsection to those ferry systems, and public enti-*
6 *ties responsible for developing ferries, that—*

7 “(A) *carry the greatest number of pas-*
8 *sengers and vehicles;*

9 “(B) *carry the greatest number of pas-*
10 *sengers in passenger-only service; or*

11 “(C) *provide critical access to areas that*
12 *are not well-served by other modes of surface*
13 *transportation.*

14 “(b) *NON-CONTRACT AUTHORITY AUTHORIZATION OF*
15 *APPROPRIATIONS.—*

16 “(1) *IN GENERAL.—There are authorized to be*
17 *appropriated from the Highway Trust Fund (other*
18 *than the Mass Transit Account) \$60,000,000 for each*
19 *fiscal year to carry out this section.*

20 “(2) *AVAILABILITY.—Notwithstanding section*
21 *118(a), funds made available under paragraph (1)*
22 *shall be available in advance of an annual appropria-*
23 *tion.”.*

24 (b) *CONFORMING AMENDMENTS.—*

1 (1) *The analysis for subchapter I of chapter 1 of*
2 *title 23, United States Code, is amended by striking*
3 *the item relating to section 147 and inserting the fol-*
4 *lowing:*

“147. Construction of ferry boats and ferry terminal and maintenance facilities.”.

5 (2) *Section 1064 of the Intermodal Surface*
6 *Transportation Efficiency Act of 1991 (105 Stat.*
7 *2005) is repealed.*

8 **SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN**
9 **INTERSTATE HIGHWAY.**

10 (a) *DESIGNATION.*—*Interstate Highway 86 in the*
11 *State of New York, extending from the Pennsylvania border*
12 *near Lake Erie through Orange County, New York, shall*
13 *be known and designated as the “Daniel Patrick Moynihan*
14 *Interstate Highway”.*

15 (b) *REFERENCES.*—*Any reference in a law, map, regu-*
16 *lation, document, paper, or other record of the United*
17 *States to the highway referred to in subsection (a) shall be*
18 *deemed to be a reference to the Daniel Patrick Moynihan*
19 *Interstate Highway.*

20 **SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY**
21 **CONSTRUCTION COSTS.**

22 (a) *COLLECTION OF DATA.*—

23 (1) *IN GENERAL.*—*The Administrator of the Fed-*
24 *eral Highway Administration (referred to in this sec-*
25 *tion as the “Administrator”)* shall collect from States

1 *any bid price data that is necessary to make State-*
2 *by-State comparisons of highway construction costs.*

3 (2) *DATA REQUIRED.*—*In determining which*
4 *data to collect and the procedures for collecting data,*
5 *the Administrator shall take into account the data*
6 *collection deficiencies identified in the report pre-*
7 *pared by the General Accounting Office numbered*
8 *GAO-04-113R.*

9 (b) *REPORT.*—

10 (1) *IN GENERAL.*—*The Administrator shall sub-*
11 *mit to Congress an annual report on the bid price*
12 *data collected under subsection (a).*

13 (2) *INCLUSIONS.*—*The report shall include—*

14 (A) *State-by-State comparisons of highway*
15 *construction costs for the previous fiscal year*
16 *(including the cost to construct a 1-mile road*
17 *segment of a standard design, as determined by*
18 *the Administrator); and*

19 (B) *a description of the competitive bidding*
20 *procedures used in each State; and*

21 (C) *a determination by Administrator as to*
22 *whether the competitive bidding procedures de-*
23 *scribed under subparagraph (B) are effective.*

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

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

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(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 of the project.”;

(2) in subsection (b)—

(A) by striking “Except as otherwise” and inserting the following:

“(1) IN GENERAL.—Except as otherwise”;

(B) by striking “shall be—” and all that follows and inserting “shall be 80 percent of the cost of the project.”; and

(C) by adding at the end the following:

“(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal

1 *share than the Federal share determined under para-*
2 *graph (1).”;*

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

5 “(d) *INCREASED FEDERAL SHARE.—*

6 “(1) *IN GENERAL.—The Federal share payable*
7 *under subsection (a) or (b) may be increased for*
8 *projects and activities in each State in which is lo-*
9 *cated—*

10 “(A) *nontaxable Indian land;*

11 “(B) *public land (reserved or unreserved);*

12 “(C) *a national forest; or*

13 “(D) *a national park or monument.*

14 “(2) *AMOUNT.—*

15 “(A) *IN GENERAL.—The Federal share for*
16 *States described in paragraph (1) shall be in-*
17 *creased by a percentage of the remaining cost*
18 *that—*

19 “(i) *is equal to the percentage that—*

20 “(I) *the area of all land described*
21 *in paragraph (1) in a State; bears to*

22 “(II) *the total area of the State;*

23 *but*

1 “(ii) does not exceed 95 percent of the
2 total cost of the project or activity for which
3 the Federal share is provided.

4 “(B) *ADJUSTMENT.*—The Secretary shall
5 adjust the Federal share for States under sub-
6 paragraph (A) as the Secretary determines nec-
7 essary, on the basis of data provided by the Fed-
8 eral agencies that are responsible for maintain-
9 ing the data.”.

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

11 Section 104 of title 23, United States Code, is amended
12 by striking subsection (k) and inserting the following:

13 “(k) *TRANSFER OF HIGHWAY AND TRANSIT FUNDS.*—

14 “(1) *TRANSFER OF HIGHWAY FUNDS FOR TRAN-*
15 *SIT PROJECTS.*—

16 “(A) *IN GENERAL.*—Subject to subpara-
17 graph (B), funds made available for transit
18 projects or transportation planning under this
19 title may be transferred to and administered by
20 the Secretary in accordance with chapter 53 of
21 title 49.

22 “(B) *NON-FEDERAL SHARE.*—The provi-
23 sions of this title relating to the non-Federal
24 share shall apply to the transferred funds.

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

6 “(3) *TRANSFER OF HIGHWAY FUNDS TO OTHER*
7 *FEDERAL AGENCIES.—*

8 “(A) *IN GENERAL.—Except as provided in*
9 *clauses (i) and (ii) and subparagraph (B), funds*
10 *made available under this title or any other Act*
11 *that are derived from Highway Trust Fund*
12 *(other than the Mass Transit account) may be*
13 *transferred to another Federal agency if—*

14 “(i)(I) *an expenditure is specifically*
15 *authorized in Federal-aid highway legisla-*
16 *tion or as a line item in an appropriation*
17 *act; or*

18 “(II) *a State transportation depart-*
19 *ment consents to the transfer of funds;*

20 “(ii) *the Secretary determines, after*
21 *consultation with the State transportation*
22 *department (as appropriate), that the Fed-*
23 *eral agency should carry out a project with*
24 *the funds; and*

1 “(iii) *the other Federal agency agrees*
2 *to accept the transfer of funds and to ad-*
3 *minister the project.*

4 “(B) *ADMINISTRATION.—*

5 “(i) *PROCEDURES.—A project carried*
6 *out with funds transferred to a Federal*
7 *agency under subparagraph (A) shall be ad-*
8 *ministered by the Federal agency under the*
9 *procedures of the Federal agency.*

10 “(ii) *APPROPRIATIONS.—Funds trans-*
11 *ferred to a Federal agency under subpara-*
12 *graph (A) shall not be considered an aug-*
13 *mentation of the appropriations of the Fed-*
14 *eral agency.*

15 “(iii) *NON-FEDERAL SHARE.—The pro-*
16 *visions of this title, or an Act described in*
17 *subparagraph (A), relating to the non-Fed-*
18 *eral share shall apply to a project carried*
19 *out with the transferred funds, unless the*
20 *Secretary determines that it is in the best*
21 *interest of the United States that the non-*
22 *Federal share be waived.*

23 “(4) *TRANSFER OF FUNDS AMONG STATES OR TO*
24 *FEDERAL HIGHWAY ADMINISTRATION.—*

1 “(A) *IN GENERAL.*—*Subject to subpara-*
2 *graphs (B) through (D), the Secretary may, at*
3 *the request of a State, transfer funds apportioned*
4 *or allocated to the State to another State, or to*
5 *the Federal Highway Administration, for the*
6 *purpose of funding 1 or more specific projects.*

7 “(B) *ADMINISTRATION.*—*The transferred*
8 *funds shall be used for the same purpose and in*
9 *the same manner for which the transferred funds*
10 *were authorized.*

11 “(C) *APPORTIONMENT.*—*The transfer shall*
12 *have no effect on any apportionment formula*
13 *used to distribute funds to States under this sec-*
14 *tion or section 105 or 144.*

15 “(D) *SURFACE TRANSPORTATION PRO-*
16 *GRAM.*—*Funds that are apportioned or allocated*
17 *to a State under subsection (b)(3) and attributed*
18 *to an urbanized area of a State with a popu-*
19 *lation of over 200,000 individuals under section*
20 *133(d)(2) may be transferred under this para-*
21 *graph only if the metropolitan planning organi-*
22 *zation designated for the area concurs, in writ-*
23 *ing, with the transfer request.*

24 “(5) *TRANSFER OF OBLIGATION AUTHORITY.*—
25 *Obligation authority for funds transferred under this*

1 *subsection shall be transferred in the same manner*
2 *and amount as the funds for the projects are trans-*
3 *ferred under this subsection.”.*

4 **SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE**
5 **AND INNOVATION ACT AMENDMENTS.**

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

8 (1) *in paragraph (3), by striking “category” and*
9 *“offered into the capital markets”;*

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

13 (3) *in paragraph (8) (as redesignated by para-*
14 *graph (2))—*

15 (A) *in subparagraph (B), by striking the*
16 *period at the end and inserting a semicolon; and*

17 (B) *by striking subparagraph (D) and in-*
18 *serting the following:*

19 “(D) *a project that—*

20 “(i)(I) *is a project for—*

21 “(aa) *a public freight rail facility*
22 *or a private facility providing public*
23 *benefit;*

24 “(bb) *an intermodal freight trans-*
25 *fer facility;*

1 “(cc) a means of access to a facil-
2 ity described in item (aa) or (bb);

3 “(dd) a service improvement for a
4 facility described in item (aa) or (bb)
5 (including a capital investment for an
6 intelligent transportation system); or

7 “(II) comprises a series of projects de-
8 scribed in subclause (I) with the common
9 objective of improving the flow of goods;

10 “(ii) may involve the combining of pri-
11 vate and public sector funds, including in-
12 vestment of public funds in private sector
13 facility improvements; and

14 “(iii) if located within the boundaries
15 of a port terminal, includes only such sur-
16 face transportation infrastructure modifica-
17 tions as are necessary to facilitate direct
18 intermodal interchange, transfer, and access
19 into and out of the port.”; and

20 (4) in paragraph (10) (as redesignated by para-
21 graph (2)) by striking “bond” and inserting “credit”.

22 (b) *DETERMINATION OF ELIGIBILITY AND PROJECT*
23 *SELECTION.*—Section 182 of title 23, United States Code,
24 is amended—

25 (1) in subsection (a)—

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

3 “(1) *INCLUSION IN TRANSPORTATION PLANS AND*
4 *PROGRAMS.—The project shall satisfy the applicable*
5 *planning and programming requirements of sections*
6 *134 and 135 at such time as an agreement to make*
7 *available a Federal credit instrument is entered into*
8 *under this subchapter.*

9 “(2) *APPLICATION.—A State, local government,*
10 *public authority, public-private partnership, or any*
11 *other legal entity undertaking the project and author-*
12 *ized by the Secretary shall submit a project applica-*
13 *tion to the Secretary.”;*

14 (B) in paragraph (3)(A)—

15 (i) in clause (i), by striking
16 “\$100,000,000” and inserting
17 “\$50,000,000”; and

18 (ii) in clause (ii), by striking “50”
19 and inserting “20”; and

20 (C) in paragraph (4)—

21 (i) by striking “Project financing” and
22 inserting “The Federal credit instrument”;
23 and

1 (ii) by inserting before the period at
2 the end the following: “that also secure the
3 project obligations”; and

4 (2) in subsection (b)—

5 (A) in paragraph (1), by striking “criteria”
6 the second place it appears and inserting “re-
7 quirements”; and

8 (B) in paragraph (2)(B), by inserting
9 “(which may be the Federal credit instrument)”
10 after “obligations”.

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

13 (1) in subsection (a)—

14 (A) in paragraph (1)—

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

17 (ii) in subparagraphs (A) and (B), by
18 inserting “of any project selected under sec-
19 tion 182” after “costs” ; and

20 (iii) in subparagraph (B), by striking
21 the semicolon at the end and inserting a pe-
22 riod; and

23 (B) in paragraph (4)—

24 (i) by striking “funding” and inserting
25 “execution”; and

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

3 (2) in subsection (b)—

4 (A) by striking paragraph (2) and inserting
5 the following:

6 “(2) *MAXIMUM AMOUNT.*—The amount of the se-
7 cured loan shall not exceed the lesser of—

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

10 “(B) the amount of the senior project obli-
11 gations.”;

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

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

17 (3) in subsection (c)—

18 (A) by striking paragraph (3);

19 (B) by redesignating paragraphs (4) and
20 (5) as paragraphs (3) and (4), respectively; and

21 (C) in paragraph (3) (as redesignated by
22 subparagraph (B))—

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

1 (ii) in subparagraph (B)(ii), by strik-
2 ing “loan” and all that follows and insert-
3 ing “loan.”.

4 (d) *LINES OF CREDIT*.—Section 184 of title 23, United
5 States Code, is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (3), by striking “interest,
8 any debt service reserve fund, and any other
9 available reserve” and inserting “interest (but
10 not including reasonably required financing re-
11 serves)”;

12 (B) in paragraph (4), by striking “market-
13 able United States Treasury securities as of the
14 date on which the line of credit is obligated” and
15 inserting “ United States Treasury securities as
16 of the date of execution of the line of credit agree-
17 ment”; and

18 (C) in paragraph (5)(A)(i), by inserting
19 “that also secure the senior project obligations”
20 after “sources”; and

21 (2) in subsection (c)—

22 (A) in paragraph (2)—

23 (i) by striking “scheduled”;

24 (ii) by inserting “be scheduled to” after
25 “shall”; and

1 (iii) by striking “be fully repaid, with
2 interest,” and inserting “to conclude, with
3 full repayment of principal and interest,”;
4 and
5 (B) by striking paragraph (3).

6 (e) *PROGRAM ADMINISTRATION*.—Section 185 of title
7 23, United States Code, is amended to read as follows:

8 **“§ 185. Program administration**

9 “(a) *REQUIREMENT*.—The Secretary shall establish a
10 uniform system to service the Federal credit instruments
11 made available under this subchapter.

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

15 “(c) *SERVICER*.—

16 “(1) *IN GENERAL*.—The Secretary may appoint
17 a financial entity to assist the Secretary in servicing
18 the Federal credit instruments.

19 “(2) *DUTIES*.—The servicer shall act as the
20 agent for the Secretary.

21 “(3) *FEE*.—The servicer shall receive a servicing
22 fee, subject to approval by the Secretary.

23 “(d) *ASSISTANCE FROM EXPERT FIRMS*.—The Sec-
24 retary may retain the services of expert firms, including
25 counsel, in the field of municipal and project finance to

1 *assist in the underwriting and servicing of Federal credit*
2 *instruments.”.*

3 (f) *FUNDING.—Section 188 of title 23, United States*
4 *Code, is amended to read as follows:*

5 **“§ 188. Funding**

6 “(a) *FUNDING.—*

7 “(1) *IN GENERAL.—There is authorized to be ap-*
8 *propriated from the Highway Trust Fund (other than*
9 *the Mass Transit Account) to carry out this sub-*
10 *chapter \$130,000,000 for each of fiscal years 2004*
11 *through 2009.*

12 “(2) *ADMINISTRATIVE COSTS.—Of amounts made*
13 *available under paragraph (1), the Secretary may use*
14 *for the administration of this subchapter not more*
15 *than \$2,000,000 for each of fiscal years 2004 through*
16 *2009.*

17 “(3) *COLLECTED FEES AND SERVICES.—In addi-*
18 *tion to funds provided under paragraph (2)—*

19 “(A) *all fees collected under this subchapter*
20 *shall be made available without further appro-*
21 *priation to the Secretary until expended, for use*
22 *in administering this subchapter; and*

23 “(B) *the Secretary may accept and use pay-*
24 *ment or services provided by transaction partici-*
25 *pants, or third parties that are paid by partici-*

1 *pants from transaction proceeds, for due dili-*
2 *gence, legal, financial, or technical services.*

3 “(4) *AVAILABILITY.—Amounts made available*
4 *under paragraph (1) shall remain available until ex-*
5 *pended.*

6 “(b) *CONTRACT AUTHORITY.—*

7 “(1) *IN GENERAL.—Notwithstanding any other*
8 *provision of law, approval by the Secretary of a Fed-*
9 *eral credit instrument that uses funds made available*
10 *under this subchapter shall be deemed to be accept-*
11 *ance by the United States of a contractual obligation*
12 *to fund the Federal credit investment.*

13 “(2) *AVAILABILITY.—Amounts authorized under*
14 *this section for a fiscal year shall be available for ob-*
15 *ligation on October 1 of the fiscal year.”.*

16 (g) *REPEAL.—Section 189 of title 23, United States*
17 *code, is repealed.*

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

20 (1) *by striking the item relating to section 185*
21 *and inserting the following:*

 “185. *Program administration.*”;

22 *and*

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

1 **SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRA-**
2 **TION PLANS AND INTERNATIONAL FUEL TAX**
3 **AGREEMENTS.**

4 (a) *IN GENERAL.*—Chapter 317 of title 49, United
5 States Code, is amended by adding at the end the following:

6 **“§31708. Facilitation of international registration**
7 **plans and international fuel tax agree-**
8 **ments**

9 *“The Secretary may provide assistance to any State*
10 *that is participating in the International Registration Plan*
11 *and International Fuel Tax Agreement, as provided in sec-*
12 *tions 31704 and 31705, respectively, and that serves as a*
13 *base jurisdiction for motor carriers that are domiciled in*
14 *Mexico, to assist the State with administrative costs result-*
15 *ing from serving as a base jurisdiction for motor carriers*
16 *from Mexico.”.*

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

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

1 **SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE**
2 **SOURCES TO SUPPORT THE HIGHWAY TRUST**
3 **FUND AND FINANCE THE NEEDS OF THE SUR-**
4 **FACE TRANSPORTATION SYSTEM.**

5 (a) *ESTABLISHMENT.*—*There is established a commis-*
6 *sion to be known as the “National Commission on Future*
7 *Revenue Sources to Support the Highway Trust Fund and*
8 *Finance the Needs of the Surface Transportation System”*
9 *(referred to in this section as the “Commission”).*

10 (b) *MEMBERSHIP.*—

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

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

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

17 (C) *2 members shall be appointed by the*
18 *minority leader of the House of Representatives;*

19 (D) *2 members shall be appointed by the*
20 *majority leader of the Senate; and*

21 (E) *2 members shall be appointed by the*
22 *minority leader of the Senate.*

23 (2) *QUALIFICATIONS.*—*Members appointed under*
24 *paragraph (1) shall have experience in or represent*
25 *the interests of—*

1 (A) public finance, including experience in
2 developing State and local revenue resources;

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

5 (C) organizations that use surface transpor-
6 tation facilities;

7 (D) academic research into related issues; or

8 (E) other activities that provide unique per-
9 spectives on current and future requirements for
10 revenue sources to support the Highway Trust
11 Fund.

12 (3) *DATE OF APPOINTMENTS.*—The appointment
13 of a member of the Commission shall be made not
14 later than 120 days after the date of establishment of
15 the Commission.

16 (4) *TERMS.*—A member shall be appointed for
17 the life of the Commission.

18 (5) *VACANCIES.*—A vacancy on the Commis-
19 sion—

20 (A) shall not affect the powers of the Com-
21 mission; and

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

24 (6) *INITIAL MEETING.*—Not later than 30 days
25 after the date on which all members of the Commis-

1 *sion have been appointed, the Commission shall hold*
2 *the initial meeting of the Commission.*

3 (7) *MEETINGS.*—*The Commission shall meet at*
4 *the call of the Chairperson.*

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

8 (9) *CHAIRPERSON AND VICE CHAIRPERSON.*—*The*
9 *Commission shall select a Chairperson and Vice*
10 *Chairperson from among the members of the Commis-*
11 *sion.*

12 (c) *DUTIES.*—

13 (1) *IN GENERAL.*—*The Commission shall—*

14 (A) *conduct a comprehensive study of alter-*
15 *natives to replace or to supplement the fuel tax*
16 *as the principal revenue source to support the*
17 *Highway Trust Fund and suggest new or alter-*
18 *native sources of revenue to fund the needs of the*
19 *surface transportation system over at least the*
20 *next 30 years;*

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

23 (i) *findings, conclusions, and rec-*
24 *ommendations of the recent study conducted*
25 *by the Transportation Research Board on*

1 *alternatives to the fuel tax to support high-*
2 *way program financing; and*

3 *(ii) other relevant prior research;*

4 *(C) consult with the Secretary and the Sec-*
5 *retary of the Treasury in conducting the study*
6 *to ensure that the views of the Secretaries con-*
7 *cerning essential attributes of Highway Trust*
8 *Fund revenue alternatives are considered;*

9 *(D) consult with representatives of State*
10 *Departments of Transportation and metropoli-*
11 *tan planning organizations and other key inter-*
12 *ested stakeholders in conducting the study to en-*
13 *sure that—*

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

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

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

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

1 (ii) *the time frame for taking those ac-*
2 *tions.*

3 (2) *SPECIFIC MATTERS.—The study shall address*
4 *specifically—*

5 (A) *the advantages and disadvantages of al-*
6 *ternative revenue sources to meet anticipated*
7 *Federal surface transportation financial require-*
8 *ments;*

9 (B) *recommendations concerning the most*
10 *promising revenue sources to support long-term*
11 *Federal surface transportation financing require-*
12 *ments;*

13 (C) *development of a broad transition strat-*
14 *egy to move from the current tax base to new*
15 *funding mechanisms, including the time frame*
16 *for various components of the transition strategy;*

17 (D) *recommendations for additional re-*
18 *search that may be needed to implement rec-*
19 *ommended alternatives; and*

20 (E) *the extent to which revenues should re-*
21 *fect the relative use of the highway system.*

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

25 (A) *the Secretary of Transportation;*

1 (B) *the Secretary of Energy;*

2 (C) *the Transportation Research Board;*

3 *and*

4 (D) *other entities and persons.*

5 (4) *FACTORS.—In developing recommendations*
6 *under this subsection, the Commission shall con-*
7 *sider—*

8 (A) *the ability to generate sufficient reve-*
9 *nues from all modes to meet anticipated long-*
10 *term surface transportation financing needs;*

11 (B) *the roles of the various levels of govern-*
12 *ment and the private sector in meeting future*
13 *surface transportation financing needs;*

14 (C) *administrative costs (including enforce-*
15 *ment costs) to implement each option;*

16 (D) *the expected increase in non-taxed fuels*
17 *and the impact of taxing those fuels;*

18 (E) *the likely technological advances that*
19 *could ease implementation of each option;*

20 (F) *the equity and economic efficiency of*
21 *each option;*

22 (G) *the flexibility of different options to*
23 *allow various pricing alternatives to be imple-*
24 *mented; and*

1 (H) *potential compatibility issues with*
2 *State and local tax mechanisms under each al-*
3 *ternative.*

4 (5) *REPORT AND RECOMMENDATIONS.—Not later*
5 *than September 30, 2007, the Commission shall sub-*
6 *mit to Congress a final report that contains—*

7 (A) *a detailed statement of the findings and*
8 *conclusions of the Commission; and*

9 (B) *the recommendations of the Commission*
10 *for such legislation and administrative actions*
11 *as the Commission considers appropriate.*

12 (d) *POWERS.—*

13 (1) *HEARINGS.—The Commission may hold such*
14 *hearings, meet and act at such times and places, take*
15 *such testimony, and receive such evidence as the Com-*
16 *mission considers advisable to carry out this section.*

17 (2) *INFORMATION FROM FEDERAL AGENCIES.—*

18 (A) *IN GENERAL.—The Commission may se-*
19 *cure directly from a Federal agency such infor-*
20 *mation as the Commission considers necessary to*
21 *carry out this section.*

22 (B) *PROVISION OF INFORMATION.—On re-*
23 *quest of the Chairperson of the Commission, the*
24 *head of the agency shall provide the information*
25 *to the Commission.*

1 (3) *POSTAL SERVICES.*—*The Commission may*
2 *use the United States mails in the same manner and*
3 *under the same conditions as other agencies of the*
4 *Federal Government.*

5 (4) *DONATIONS.*—*The Commission may accept,*
6 *use, and dispose of donations of services or property.*

7 (e) *COMMISSION PERSONNEL MATTERS.*—

8 (1) *MEMBERS.*—*A member of the Commission*
9 *shall serve without pay but shall be allowed travel ex-*
10 *penditures, including per diem in lieu of subsistence, at*
11 *rates authorized for an employee of an agency under*
12 *subchapter I of chapter 57 of title 5, United States*
13 *Code, while away from the home or regular place of*
14 *business of the member in the performance of the du-*
15 *ties of the Commission.*

16 (2) *CONTRACTOR.*—*The Commission may con-*
17 *tract with an appropriate organization, agency, or*
18 *entity to conduct the study required under this sec-*
19 *tion, under the strategic guidance of the Commission.*

20 (3) *ADMINISTRATIVE SUPPORT.*—*On the request*
21 *of the Commission, the Administrator of the Federal*
22 *Highway Administration shall provide to the Com-*
23 *mission, on a reimbursable basis, the administrative*
24 *support and services necessary for the Commission to*

1 *carry out the duties of the Commission under this sec-*
2 *tion.*

3 (4) *DETAIL OF DEPARTMENT PERSONNEL.—*

4 (A) *IN GENERAL.—On the request of the*
5 *Commission, the Secretary may detail, on a re-*
6 *imbursable basis, any of the personnel of the De-*
7 *partment to the Commission to assist the Com-*
8 *mission in carrying out the duties of the Com-*
9 *mission under this section.*

10 (B) *CIVIL SERVICE STATUS.—The detail of*
11 *the employee shall be without interruption or*
12 *loss of civil service status or privilege.*

13 (5) *COOPERATION.—The staff of the Secretary*
14 *shall cooperate with the Commission in the study re-*
15 *quired under this section, including providing such*
16 *nonconfidential data and information as are nec-*
17 *essary to conduct the study.*

18 (f) *RELATIONSHIP TO OTHER LAWS.—*

19 (1) *IN GENERAL.—Except as provided in para-*
20 *graphs (2) and (3), funds made available to carry out*
21 *this section shall be available for obligation in the*
22 *same manner as if the funds were apportioned under*
23 *chapter 1 of title 23, United States Code.*

1 (2) *FEDERAL SHARE.*—*The Federal share of the*
2 *cost of the study and the Commission under this sec-*
3 *tion shall be 100 percent.*

4 (3) *AVAILABILITY.*—*Funds made available to*
5 *carry out this section shall remain available until ex-*
6 *pended.*

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

11 (h) *TERMINATION.*—

12 (1) *IN GENERAL.*—*The Commission shall termi-*
13 *nate on the date that is 180 days after the date on*
14 *which the Commission submits the report of the Com-*
15 *mission under subsection (c)(5).*

16 (2) *RECORDS.*—*Not later than the termination*
17 *date for the Commission, all records and papers of the*
18 *Commission shall be delivered to the Archivist of the*
19 *United States for deposit in the National Archives.*

20 **SEC. 1306. STATE INFRASTRUCTURE BANKS.**

21 *Section 1511(b)(1)(A) of the Transportation Equity*
22 *Act for the 21st Century (23 U.S.C. 181 note; 112 Stat.*
23 *251) is amended by striking “Missouri,” and all that fol-*
24 *lows through “for the establishment” and inserting “Mis-*

1 *souri, Rhode Island, Texas, and any other State that seeks*
2 *such an agreement for the establishment”.*

3 **SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-**
4 **GRAM.**

5 *Section 109(c) of title 23, United States Code, is*
6 *amended by adding at the end the following:*

7 *“(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-*
8 *GRAM.—*

9 *“(A) IN GENERAL.—The Secretary may un-*
10 *dertake a pilot program to demonstrate the ad-*
11 *vantages of public-private partnerships for crit-*
12 *ical capital development projects, including high-*
13 *way, bridge, and freight intermodal connector*
14 *projects authorized under this title.*

15 *“(B) PROJECTS.—In carrying out the pro-*
16 *gram, the Secretary shall—*

17 *“(i) select not less than 10 qualified*
18 *public-private partnership projects that are*
19 *authorized under applicable State and local*
20 *laws; and*

21 *“(ii) use funds made available to carry*
22 *out the program to provide to sponsors of*
23 *the projects assistance for development*
24 *phase activities described in section*

1 181(1)(A), to enhance project delivery and
2 reduce overall costs.”.

3 **SEC. 1308. WAGERING.**

4 (a) *IN GENERAL.*—Chapter 35 of the Internal Revenue
5 Code of 1986 is repealed.

6 (b) *CONFORMING AMENDMENTS.*—

7 (1) Section 4901 of the Internal Revenue Code is
8 amended to read as follows:

9 **“SEC. 4901. PAYMENT OF TAX.**

10 “All special taxes shall be imposed as of on the first
11 day of July in each year, or on commencing any trade or
12 business on which such tax is imposed. In the former case
13 the tax shall be reckoned for 1 year, and in the latter case
14 it shall be reckoned proportionately, from the first day of
15 the month in which the liability to a special tax com-
16 menced, to and including the 30th day of June following.”.

17 (2) Section 4903 of such Code is amended by
18 striking “, other than the tax imposed by section
19 4411,”.

20 (3) Section 4905 of such Code is amended to
21 read as follows:

22 **“SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF**
23 **LOCATION.**

24 “When any person who has paid the special tax for
25 any trade or business dies, his spouse or child, or executors

1 *or administrators or other legal representatives, may oc-*
2 *cupy the house or premises, and in like manner carry on,*
3 *for the residue of the term for which the tax is paid, the*
4 *same trade or business as the deceased before carried on,*
5 *in the same house and upon the same premises, without*
6 *the payment of any additional tax. When any person re-*
7 *moves from the house or premises for which any trade or*
8 *business was taxed to any other place, he may carry on*
9 *the trade or business specified in the register kept in the*
10 *office of the official in charge of the internal revenue district*
11 *at the place to which he removes, without the payment of*
12 *any additional tax: Provided, That all cases of death,*
13 *change, or removal, as aforesaid, with the name of the suc-*
14 *cessor to any person deceased, or of the person making such*
15 *change or removal, shall be registered with the Secretary,*
16 *under regulations to be prescribed by the Secretary.”.*

17 (4) *Section 4907 of such Code is amended by*
18 *striking “, except the tax imposed by section 4411,”.*

19 (5) *Section 6103(i)(8)(A) of such Code is amend-*
20 *ed—*

21 (A) *by striking “, except to the extent au-*
22 *thorized by subsection (f) or (p)(6), disclose to*
23 *any person, other than another officer or em-*
24 *ployee of such office whose official duties require*
25 *such disclosure, any return or return informa-*

1 tion described in section 4424(a) in a form
2 which can be associated with, or otherwise iden-
3 tify, directly or indirectly, a particular tax-
4 payer, nor shall such officer or employee disclose
5 any other” and inserting “disclose any”, and

6 (B) by striking “such other officer” and in-
7 serting “such officer”.

8 (6) Section 6103(o) of such Code is amended to
9 read as follows:

10 “(o) *DISCLOSURE OF RETURNS AND RETURN INFOR-*
11 *MATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE*
12 *E.—Returns and return information with respect to taxes*
13 *imposed by subtitle E (relating to taxes on alcohol, tobacco,*
14 *and firearms) shall be open to inspection by or disclosure*
15 *to officers and employees of a Federal agency whose official*
16 *duties require such inspection or disclosure.”.*

17 (7)(A) Subchapter B of chapter 65 of such Code
18 is amended by striking section 6419 (relating to ex-
19 cise tax on wagering).

20 (B) The table of section of subchapter B of chap-
21 ter 65 of such Code is amended by striking the item
22 relating to section 6419.

23 (8) Section 6806 of such Code is amended by
24 striking “under subchapter B of chapter 35, under

1 *subchapter B of chapter 36,” and inserting “under*
2 *subchapter B of chapter 36”.*

3 *(9) Section 7012 of such Code is amended by*
4 *striking paragraph (2) and by redesignating para-*
5 *graphs (3), (4), and (5) as paragraphs (2), (3), and*
6 *(4), respectively.*

7 *(10)(A) Subchapter B of chapter 75 of such Code*
8 *is amended by striking section 7262 (relating to vio-*
9 *lation of occupational tax laws relating to wagering-*
10 *failure to pay special tax).*

11 *(B) The table of sections of subchapter B of chap-*
12 *ter 75 of such Code is amended by striking the item*
13 *relating to section 7262.*

14 *(11) Section 7272 of such Code, as amended by*
15 *section 5244 of this Act, is amended to read as fol-*
16 *lows:*

17 **“SEC. 7272. PENALTY FOR FAILURE TO REGISTER.**

18 *“Any person (other than persons required to register*
19 *under subtitle E, or persons engaging in a trade or business*
20 *on which a special tax is imposed by such subtitle) who*
21 *fails to register with the Secretary as required by this title*
22 *or by regulations issued thereunder shall be liable to a pen-*
23 *alty of \$50 (\$10,000 in the case of a failure to register under*
24 *section 4101).”.*

1 (12) *Section 7613(a) is amended by striking “or*
 2 *other data in the case of” and all that follows and in-*
 3 *serting “or other data in the case of alcohol, tobacco,*
 4 *and firearms taxes, see subtitle E.”.*

5 (13) *The table of chapters of subtitle D of such*
 6 *Code is amended by striking the item relating to*
 7 *chapter 35.*

8 (c) *EFFECTIVE DATE.—*

9 (1) *IN GENERAL.—Except as provided in para-*
 10 *graph (2), the amendments made by this section shall*
 11 *apply to wagers placed after the date of the enactment*
 12 *of this Act.*

13 (2) *SPECIAL TAXES.—In the case of amendments*
 14 *made by this section relating to special taxes imposed*
 15 *by subchapter B of chapter 35, the amendments made*
 16 *by this section shall take effect on July 1, 2004.*

17 ***Subtitle D—Safety***

18 ***SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.***

19 (a) *SAFETY IMPROVEMENT.—*

20 (1) *IN GENERAL.—Section 148 of title 23,*
 21 *United States Code, is amended to read as follows:*

22 ***“§ 148. Highway safety improvement program***

23 ***“(a) DEFINITIONS.—In this section:***

24 ***“(1) HIGHWAY SAFETY IMPROVEMENT PRO-***
 25 ***GRAM.—The term ‘highway safety improvement pro-***

1 *gram’ means the program carried out under this sec-*
2 *tion.*

3 “(2) *HIGHWAY SAFETY IMPROVEMENT*
4 *PROJECT.—*

5 “(A) *IN GENERAL.—The term ‘highway*
6 *safety improvement project’ means a project de-*
7 *scribed in the State strategic highway safety*
8 *plan that—*

9 “(i) *corrects or improves a hazardous*
10 *road location or feature; or*

11 “(ii) *addresses a highway safety prob-*
12 *lem.*

13 “(B) *INCLUSIONS.—The term ‘highway safe-*
14 *ty improvement project’ includes a project for—*

15 “(i) *an intersection safety improve-*
16 *ment;*

17 “(ii) *pavement and shoulder widening*
18 *(including addition of a passing lane to*
19 *remedy an unsafe condition);*

20 “(iii) *installation of rumble strips or*
21 *another warning device, if the rumble strips*
22 *or other warning devices do not adversely*
23 *affect the safety or mobility of bicyclists and*
24 *pedestrians;*

1 “(iv) installation of a skid-resistant
2 surface at an intersection or other location
3 with a high frequency of accidents;

4 “(v) an improvement for pedestrian or
5 bicyclist safety;

6 “(vi)(I) construction of any project for
7 the elimination of hazards at a railway-
8 highway crossing that is eligible for funding
9 under section 130, including the separation
10 or protection of grades at railway-highway
11 crossings;

12 “(II) construction of a railway-high-
13 way crossing safety feature; or

14 “(III) the conduct of a model traffic
15 enforcement activity at a railway-highway
16 crossing;

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

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

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

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

- 1 “(xi) installation of a traffic control or
2 other warning device at a location with
3 high accident potential;
- 4 “(xii) safety-conscious planning;
- 5 “(xiii) improvement in the collection
6 and analysis of crash data;
- 7 “(xiv) planning, integrated, interoper-
8 able emergency communications, equipment,
9 operational activities, or traffic enforcement
10 activities (including police assistance) relat-
11 ing to workzone safety;
- 12 “(xv) installation of guardrails, bar-
13 riers (including barriers between construc-
14 tion work zones and traffic lanes for the
15 safety of motorists and workers), and crash
16 attenuators;
- 17 “(xvi) the addition or retrofitting of
18 structures or other measures to eliminate or
19 reduce accidents involving vehicles and
20 wildlife; or
- 21 “(xvii) installation and maintenance
22 of signs (including fluorescent, yellow-green
23 signs) at pedestrian-bicycle crossings and in
24 school zones.

1 “(3) *SAFETY PROJECT UNDER ANY OTHER SEC-*
2 *TION.—*

3 “(A) *IN GENERAL.—The term ‘safety project*
4 *under any other section’ means a project carried*
5 *out for the purpose of safety under any other sec-*
6 *tion of this title.*

7 “(B) *INCLUSION.—The term ‘safety project*
8 *under any other section’ includes a project to—*

9 “(i) *promote the awareness of the pub-*
10 *lic and educate the public concerning high-*
11 *way safety matters; or*

12 “(ii) *enforce highway safety laws.*

13 “(4) *STATE HIGHWAY SAFETY IMPROVEMENT*
14 *PROGRAM.—The term ‘State highway safety improve-*
15 *ment program’ means projects or strategies included*
16 *in the State strategic highway safety plan carried out*
17 *as part of the State transportation improvement pro-*
18 *gram under section 135(f).*

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

23 “(A) *is developed after consultation with—*

24 “(i) *a highway safety representative of*
25 *the Governor of the State;*

1 “(ii) regional transportation planning
2 organizations and metropolitan planning
3 organizations, if any;

4 “(iii) representatives of major modes of
5 transportation;

6 “(iv) State and local traffic enforce-
7 ment officials;

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

10 “(vi) representatives conducting Oper-
11 ation Lifesaver;

12 “(vii) representatives conducting a
13 motor carrier safety program under section
14 31104 or 31107 of title 49;

15 “(viii) motor vehicle administration
16 agencies; and

17 “(ix) other major State and local safe-
18 ty stakeholders;

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

21 “(C) addresses engineering, management,
22 operation, education, enforcement, and emer-
23 gency services elements (including integrated,
24 interoperable emergency communications) of

1 *highway safety as key factors in evaluating high-*
2 *way projects;*

3 “(D) *considers safety needs of, and high-fa-*
4 *tality segments of, public roads;*

5 “(E) *considers the results of State, regional,*
6 *or local transportation and highway safety plan-*
7 *ning processes;*

8 “(F) *describes a program of projects or*
9 *strategies to reduce or eliminate safety hazards;*

10 “(G) *is approved by the Governor of the*
11 *State or a responsible State agency; and*

12 “(H) *is consistent with the requirements of*
13 *section 135(f).*

14 “(b) *PROGRAM.—*

15 “(1) *IN GENERAL.—The Secretary shall carry*
16 *out a highway safety improvement program.*

17 “(2) *PURPOSE.—The purpose of the highway*
18 *safety improvement program shall be to achieve a sig-*
19 *nificant reduction in traffic fatalities and serious in-*
20 *juries on public roads.*

21 “(c) *ELIGIBILITY.—*

22 “(1) *IN GENERAL.—To obligate funds appor-*
23 *tioned under section 104(b)(5) to carry out this sec-*
24 *tion, a State shall have in effect a State highway safe-*
25 *ty improvement program under which the State—*

1 “(A) develops and implements a State strategic highway safety plan that identifies and
2 analyzes highway safety problems and opportunities as provided in paragraph (2);
3
4

5 “(B) produces a program of projects or strategies to reduce identified safety problems;
6

7 “(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority
8 of proposed improvements; and
9

10 “(D) submits to the Secretary an annual report that—
11

12 “(i) describes, in a clearly understandable fashion, not less than 5 percent of locations
13 determined by the State, using criteria established in accordance with paragraph
14 (2)(B)(ii), as exhibiting the most severe safety needs; and
15
16
17

18 “(ii) contains an assessment of—

19 “(I) potential remedies to hazardous locations identified;
20

21 “(II) estimated costs associated with those remedies; and
22

23 “(III) impediments to implementation other than cost associated with
24 those remedies.
25

1 “(2) *IDENTIFICATION AND ANALYSIS OF HIGH-*
2 *WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As*
3 *part of the State strategic highway safety plan, a*
4 *State shall—*

5 “(A) *have in place a crash data system with*
6 *the ability to perform safety problem identifica-*
7 *tion and countermeasure analysis;*

8 “(B) *based on the analysis required by sub-*
9 *paragraph (A)—*

10 “(i) *identify hazardous locations, sec-*
11 *tions, and elements (including roadside ob-*
12 *stacles, railway-highway crossing needs,*
13 *and unmarked or poorly marked roads) that*
14 *constitute a danger to motorists, bicyclists,*
15 *pedestrians, and other highway users; and*

16 “(ii) *using such criteria as the State*
17 *determines to be appropriate, establish the*
18 *relative severity of those locations, in terms*
19 *of accidents, injuries, deaths, traffic volume*
20 *levels, and other relevant data;*

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

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

1 “(ii) focus resources on areas of great-
2 est need; and

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

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

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

13 “(ii) includes all public roads;

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

18 “(iv) includes a means of identifying
19 the relative severity of hazardous locations
20 described in clause (iii) in terms of acci-
21 dents, injuries, deaths, and traffic volume
22 levels;

23 “(E)(i) determine priorities for the correc-
24 tion of hazardous road locations, sections, and
25 elements (including railway-highway crossing

1 improvements), as identified through crash data
2 analysis;

3 “(ii) identify opportunities for preventing
4 the development of such hazardous conditions;
5 and

6 “(iii) establish and implement a schedule of
7 highway safety improvement projects for hazard
8 correction and hazard prevention; and

9 “(F)(i) establish an evaluation process to
10 analyze and assess results achieved by highway
11 safety improvement projects carried out in ac-
12 cordance with procedures and criteria established
13 by this section; and

14 “(i) use the information obtained under
15 clause (i) in setting priorities for highway safety
16 improvement projects.

17 “(d) ELIGIBLE PROJECTS.—

18 “(1) IN GENERAL.—A State may obligate funds
19 apportioned to the State under section 104(b)(5) to
20 carry out—

21 “(A) any highway safety improvement
22 project on any public road or publicly owned bi-
23 cycle or pedestrian pathway or trail; or

24 “(B) as provided in subsection (e), for other
25 safety projects.

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

2 “(A) *EFFECT OF SECTION.*—*Nothing in this*
3 *section prohibits the use of funds made available*
4 *under other provisions of this title for highway*
5 *safety improvement projects.*

6 “(B) *USE OF OTHER FUNDS.*—*States are*
7 *encouraged to address the full scope of their safe-*
8 *ty needs and opportunities by using funds made*
9 *available under other provisions of this title (ex-*
10 *cept a provision that specifically prohibits that*
11 *use).*

12 “(e) *FLEXIBLE FUNDING FOR STATES WITH A STRA-*
13 *TEGIC HIGHWAY SAFETY PLAN.*—

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

20 “(2) *OTHER TRANSPORTATION AND HIGHWAY*
21 *SAFETY PLANS.*—*Nothing in this subsection requires a*
22 *State to revise any State process, plan, or program*
23 *in effect on the date of enactment of this section.*

24 “(f) *REPORTS.*—

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

3 “(A) describes progress being made to im-
4 plement highway safety improvement projects
5 under this section;

6 “(B) assesses the effectiveness of those im-
7 provements; and

8 “(C) describes the extent to which the im-
9 provements funded under this section contribute
10 to the goals of—

11 “(i) reducing the number of fatalities
12 on roadways;

13 “(ii) reducing the number of roadway-
14 related injuries;

15 “(iii) reducing the occurrences of road-
16 way-related crashes;

17 “(iv) mitigating the consequences of
18 roadway-related crashes; and

19 “(v) reducing the occurrences of road-
20 way-railroad grade crossing crashes.

21 “(2) *CONTENTS; SCHEDULE.*—The Secretary
22 shall establish the content and schedule for a report
23 under paragraph (1).

1 “(3) *TRANSPARENCY.*—*The Secretary shall make*
2 *reports under subsection (c)(1)(D) available to the*
3 *public through—*

4 “(A) *the Internet site of the Department;*
5 *and*

6 “(B) *such other means as the Secretary de-*
7 *termines to be appropriate.*

8 “(4) *DISCOVERY AND ADMISSION INTO EVIDENCE*
9 *OF CERTAIN REPORTS, SURVEYS, AND INFORMA-*
10 *TION.*—*Notwithstanding any other provision of law,*
11 *reports, surveys, schedules, lists, or data compiled or*
12 *collected for any purpose directly relating to para-*
13 *graph (1) or subsection (c)(1)(D), or published by the*
14 *Secretary in accordance with paragraph (3), shall not*
15 *be subject to discovery or admitted into evidence in a*
16 *Federal or State court proceeding or considered for*
17 *other purposes in any action for damages arising*
18 *from any occurrence at a location identified or ad-*
19 *dressed in such reports, surveys, schedules, lists, or*
20 *other data.*

21 “(g) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVE-*
22 *MENT PROJECTS.*—*Except as provided in sections 120 and*
23 *130, the Federal share of the cost of a highway safety im-*
24 *provement project carried out with funds made available*
25 *under this section shall be 90 percent.*

1 “(h) *FUNDS FOR BICYCLE AND PEDESTRIAN SAFE-*
 2 *TY.*—A State shall allocate for bicycle and pedestrian im-
 3 *provements in the State a percentage of the funds remain-*
 4 *ing after implementation of sections 130(e) and 150, in an*
 5 *amount that is equal to or greater than the percentage of*
 6 *all fatal crashes in the States involving bicyclists and pedes-*
 7 *trians.*

8 “(i) *ROADWAY SAFETY IMPROVEMENTS FOR OLDER*
 9 *DRIVERS AND PEDESTRIANS.*—For each of fiscal years 2004
 10 *through 2009, \$25,000,000 is authorized to be appropriated*
 11 *out of the Highway Trust Fund (other than the Mass Tran-*
 12 *sit Account) for projects in all States to improve traffic*
 13 *signs and pavement markings in a manner consistent with*
 14 *the recommendations included in the publication of the Fed-*
 15 *eral Highway Administration entitled ‘Guidelines and Rec-*
 16 *ommendations to Accommodate Older Drivers and Pedes-*
 17 *trians (FHWA-RD-01-103)’ and dated October 2001.”.*

18 (2) *ALLOCATIONS OF APPORTIONED FUNDS.*—
 19 *Section 133(d) of title 23, United States Code, is*
 20 *amended—*

21 (A) *by striking paragraph (1);*

22 (B) *by redesignating paragraphs (2)*
 23 *through (5) as paragraphs (1) through (4), re-*
 24 *spectively;*

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

3 (i) in the first sentence of subpara-
4 graph (A)—

5 (I) by striking “subparagraphs
6 (C) and (D)” and inserting “subpara-
7 graph (C)”; and

8 (II) by striking “80 percent” and
9 inserting “90 percent”;

10 (ii) in subparagraph (B), by striking
11 “tobe” and inserting “to be”;

12 (iii) by striking subparagraph (C);

13 (iv) by redesignating subparagraphs
14 (D) and (E) as subparagraphs (C) and (D),
15 respectively; and

16 (v) in subparagraph (C) (as redesi-
17 gnated by clause (iv)), by adding a period at
18 the end; and

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

22 (3) ADMINISTRATION.—Section 133(e) of title 23,
23 United States Code, is amended in each of para-
24 graphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e),

1 *by striking “(d)(2)” each place it appears and insert-*
2 *ing “(d)(1)”.*

3 *(4) CONFORMING AMENDMENTS.—*

4 *(A) The analysis for chapter 1 of title 23,*
5 *United States Code, is amended by striking the*
6 *item relating to section 148 and inserting the*
7 *following:*

“148. Highway safety improvement program.”.

8 *(B) Section 104(g) of title 23, United States*
9 *Code, is amended in the first sentence by striking*
10 *“sections 130, 144, and 152 of this title” and in-*
11 *serting “sections 130 and 144”.*

12 *(C) Section 126 of title 23, United States*
13 *Code, is amended—*

- 14 *(i) in subsection (a), by inserting*
15 *“under” after “State’s apportionment”; and*
16 *(ii) in subsection (b)—*

17 *(I) in the first sentence, by strik-*
18 *ing “the last sentence of section*
19 *133(d)(1) or to section 104(f) or to sec-*
20 *tion 133(d)(3)” and inserting “section*
21 *104(f) or 133(d)(2)”;* and

22 *(II) in the second sentence, by*
23 *striking “or 133(d)(2)”.*

24 *(D) Sections 154, 164, and 409 of title 23,*
25 *United States Code, are amended by striking*

1 “152” each place it appears and inserting
2 “148”.

3 (b) *APPORTIONMENT OF HIGHWAY SAFETY IMPROVE-*
4 *MENT PROGRAM FUNDS.*—Section 104(b) of title 23, United
5 *States Code, is amended—*

6 (1) *in the matter preceding paragraph (1), by*
7 *inserting after “Improvement program,” the fol-*
8 *lowing: “the highway safety improvement program,”;*
9 *and*

10 (2) *by adding at the end the following:*

11 “(5) *HIGHWAY SAFETY IMPROVEMENT PRO-*
12 *GRAM.*—

13 “(A) *IN GENERAL.*—*For the highway safety*
14 *improvement program, in accordance with the*
15 *following formula:*

16 “(i) *25 percent of the apportionments*
17 *in the ratio that—*

18 “(I) *the total lane miles of Fed-*
19 *eral-aid highways in each State; bears*
20 *to*

21 “(II) *the total lane miles of Fed-*
22 *eral-aid highways in all States.*

23 “(ii) *40 percent of the apportionments*
24 *in the ratio that—*

1 “(I) the total vehicle miles trav-
2 eled on lanes on Federal-aid highways
3 in each State; bears to

4 “(II) the total vehicle miles trav-
5 eled on lanes on Federal-aid highways
6 in all States.

7 “(iii) 35 percent of the apportionments
8 in the ratio that—

9 “(I) the estimated tax payments
10 attributable to highway users in each
11 State paid into the Highway Trust
12 Fund (other than the Mass Transit Ac-
13 count) in the latest fiscal year for
14 which data are available; bears to

15 “(II) the estimated tax payments
16 attributable to highway users in all
17 States paid into the Highway Trust
18 Fund (other than the Mass Transit Ac-
19 count) in the latest fiscal year for
20 which data are available.

21 “(B) *MINIMUM APPORTIONMENT.*—Notwith-
22 standing subparagraph (A), each State shall re-
23 ceive a minimum of $\frac{1}{2}$ of 1 percent of the funds
24 apportioned under this paragraph.”.

1 (c) *ELIMINATION OF HAZARDS RELATING TO RAIL-*
2 *WAY-HIGHWAY CROSSINGS.*—

3 (1) *FUNDS FOR RAILWAY-HIGHWAY CROSS-*
4 *INGS.*—Section 130(e) of title 23, United States Code,
5 *is amended by inserting before “At least” the fol-*
6 *lowing: “For each fiscal year, at least \$200,000,000*
7 *of the funds authorized and expended under section*
8 *148 shall be available for the elimination of hazards*
9 *and the installation of protective devices at railway-*
10 *highway crossings.”.*

11 (2) *BIENNIAL REPORTS TO CONGRESS.*—Section
12 *130(g) of title 23, United States Code, is amended in*
13 *the third sentence—*

14 (A) *by inserting “and the Committee on*
15 *Commerce, Science, and Transportation,” after*
16 *“Public Works”; and*

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

19 (3) *EXPENDITURE OF FUNDS.*—Section 130 of
20 *title 23, United States Code, is amended by adding*
21 *at the end the following:*

22 “(k) *EXPENDITURE OF FUNDS.*—Funds made avail-
23 *able to carry out this section shall be—*

1 “(1) available for expenditure on compilation
2 and analysis of data in support of activities carried
3 out under subsection (g); and

4 “(2) apportioned in accordance with section
5 104(b)(5).”.

6 (d) *TRANSITION.*—

7 (1) *IMPLEMENTATION.*—*Except as provided in*
8 *paragraph (2), the Secretary shall approve obliga-*
9 *tions of funds apportioned under section 104(b)(5) of*
10 *title 23, United States Code (as added by subsection*
11 *(b)) to carry out section 148 of that title, only if, not*
12 *later than October 1 of the second fiscal year after the*
13 *date of enactment of this Act, a State has developed*
14 *and implemented a State strategic highway safety*
15 *plan as required under section 148(c) of that title.*

16 (2) *INTERIM PERIOD.*—

17 (A) *IN GENERAL.*—*Before October 1 of the*
18 *second fiscal year after the date of enactment of*
19 *this Act and until the date on which a State de-*
20 *velops and implements a State strategic highway*
21 *safety plan, the Secretary shall apportion funds*
22 *to a State for the highway safety improvement*
23 *program and the State may obligate funds ap-*
24 *portioned to the State for the highway safety im-*
25 *provement program under section 148 for*

1 *projects that were eligible for funding under sec-*
2 *tions 130 and 152 of that title, as in effect on*
3 *the day before the date of enactment of this Act.*

4 *(B) NO STRATEGIC HIGHWAY SAFETY*
5 *PLAN.—If a State has not developed a strategic*
6 *highway safety plan by October 1 of the second*
7 *fiscal year after the date of enactment of this*
8 *Act, but demonstrates to the satisfaction of the*
9 *Secretary that progress is being made toward de-*
10 *veloping and implementing such a plan, the Sec-*
11 *retary shall continue to apportion funds for 1*
12 *additional fiscal year for the highway safety im-*
13 *provement program under section 148 of title 23,*
14 *United States Code, to the State, and the State*
15 *may continue to obligate funds apportioned to*
16 *the State under this section for projects that were*
17 *eligible for funding under sections 130 and 152*
18 *of that title, as in effect on the day before the*
19 *date of enactment of this Act.*

20 *(C) PENALTY.—If a State has not adopted*
21 *a strategic highway safety plan by the date that*
22 *is 2 years after the date of enactment of this Act,*
23 *funds made available to the State under section*
24 *1101(6) shall be redistributed to other States in*

1 *accordance with section 104(b)(3) of title 23,*
2 *United States Code.*

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

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

6 (1) *by striking “subsection (b)(3)” and inserting*
7 *“subsection (b)(5)”;* and

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

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

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

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

16 “(A) *the suspension of all driving privileges*
17 *of an individual for the duration of the suspen-*
18 *sion period; or*

19 “(B) *a combination of suspension of all*
20 *driving privileges of an individual for the first*
21 *90 days of the suspension period, followed by re-*
22 *instatement of limited driving privileges requir-*
23 *ing the individual to operate only motor vehicles*
24 *equipped with an ignition interlock system or*

1 *other device approved by the Secretary during*
2 *the remainder of the suspension period.”.*

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

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

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

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

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

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

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

1 *in which such a vehicle is using the Dwight D. Eisen-*
2 *hower System of Interstate and Defense Highways.”.*

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

4 *(a) IN GENERAL.—Subchapter I of chapter I of title*
5 *23, United States Code, is amended by inserting after sec-*
6 *tion 149 the following:*

7 **“§ 150. Safe routes to schools program**

8 *“(a) DEFINITIONS.—In this section:*

9 *“(1) PRIMARY AND SECONDARY SCHOOL.—The*
10 *term ‘primary and secondary school’ means a school*
11 *that provides education to children in any of grades*
12 *kindergarten through 12.*

13 *“(2) PROGRAM.—The term ‘program’ means the*
14 *safe routes to schools program established under sub-*
15 *section (b).*

16 *“(3) VICINITY OF A SCHOOL.—The term ‘vicinity*
17 *of a school’ means the area within 2 miles of a pri-*
18 *mary or secondary school.*

19 *“(b) ESTABLISHMENT.—The Secretary shall establish*
20 *and carry out a safe routes to school program for the benefit*
21 *of children in primary and secondary schools in accordance*
22 *with this section.*

23 *“(c) PURPOSES.—The purposes of the program shall*
24 *be—*

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

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

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

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

14 “(e) *ELIGIBLE PROJECTS AND ACTIVITIES.*—

15 “(1) *INFRASTRUCTURE-RELATED PROJECTS.*—

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

21 “(i) sidewalk improvements;

22 “(ii) traffic calming and speed reduc-
23 tion improvements;

24 “(iii) pedestrian and bicycle crossing
25 improvements;

1 “(iv) on-street bicycle facilities;

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

4 “(vi) secure bicycle parking facilities;

5 “(vii) traffic signal improvements; and

6 “(viii) pedestrian-railroad grade cross-
7 ing improvements.

8 “(B) LOCATION OF PROJECTS.—Infrastructure-
9 related projects under subparagraph (A)
10 may be carried out on—

11 “(i) any public road in the vicinity of
12 a school; or

13 “(ii) any bicycle or pedestrian path-
14 way or trail in the vicinity of a school.

15 “(2) BEHAVIORAL ACTIVITIES.—

16 “(A) IN GENERAL.—In addition to projects
17 described in paragraph (1), amounts appor-
18 tioned to a State under this section may be used
19 for behavioral activities to encourage walking
20 and bicycling to school, including—

21 “(i) public awareness campaigns and
22 outreach to press and community leaders;

23 “(ii) traffic education and enforcement
24 in the vicinity of schools; and

1 “(iii) *student sessions on bicycle and*
2 *pedestrian safety, health, and environment.*

3 “(B) *ALLOCATION.—Of the amounts appor-*
4 *tioned to a State under this section for a fiscal*
5 *year, not less than 10 percent shall be used for*
6 *behavioral activities under this paragraph.*

7 “(f) *FUNDING.—*

8 “(1) *SET ASIDE.—Before apportioning amounts*
9 *to carry out section 148 for a fiscal year, the Sec-*
10 *retary shall set aside and use \$70,000,000 to carry*
11 *out this section.*

12 “(2) *APPORTIONMENT.—Amounts made available*
13 *to carry out this section shall be apportioned to*
14 *States in accordance with section 104(b)(5).*

15 “(3) *ADMINISTRATION OF AMOUNTS.—Amounts*
16 *apportioned to a State under this section shall be ad-*
17 *ministered by the State transportation department.*

18 “(4) *FEDERAL SHARE.—Except as provided in*
19 *sections 120 and 130, the Federal share of the cost of*
20 *a project or activity funded under this section shall*
21 *be 90 percent.*

22 “(5) *PERIOD OF AVAILABILITY.—Notwith-*
23 *standing section 118(b)(2), amounts apportioned*
24 *under this section shall remain available until ex-*
25 *pended.”.*

1 (b) *CONFORMING AMENDMENTS.*—*The analysis for*
2 *subchapter I of chapter 1 of title 23, United States Code*
3 *is amended by inserting after the item relating to section*
4 *149 the following:*

 “150. *Safe routes to school program.*”.

5 **SEC. 1406. PURCHASES OF EQUIPMENT.**

6 (a) *IN GENERAL.*—*Section 152 of title 23, United*
7 *States Code is amended to read as follows:*

8 **“§ 152. Purchases of equipment**

9 “(a) *IN GENERAL.*—*Subject to subsection (b), a State*
10 *carrying out a project under this chapter shall purchase*
11 *device, tool or other equipment needed for the project only*
12 *after completing and providing a written analysis dem-*
13 *onstrating the cost savings associated with purchasing the*
14 *equipment compared with renting the equipment from a*
15 *qualified equipment rental provider before the project com-*
16 *mences*

17 “(b) *APPLICABILITY.*—*This section shall apply to—*

18 “(1) *earth moving, road machinery, and mate-*
19 *rial handling equipment, or any other item, with a*
20 *purchase price in excess of \$75,000; and*

21 “(2) *aerial work platforms with a purchase price*
22 *in excess of \$25,000.*”.

23 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
24 *chapter I of chapter 1 of title 23, United States Code, is*

1 *amended by striking the item relating to section 152 and*
2 *inserting the following:*

“152. Purchases of equipment.”.

3 **SEC. 1407. WORKZONE SAFETY.**

4 *Section 358(b) of the National Highway System Des-*
5 *ignation Act of 1995 (109 Stat. 625) is amended by adding*
6 *at the end the following:*

7 *“(7) Recommending all federally-assisted projects*
8 *in excess of \$15,000,000 to enter into contracts only*
9 *with work zone safety services contractors, traffic con-*
10 *trol contractors, and trench safety and shoring con-*
11 *tractors that carry general liability insurance in an*
12 *amount not less than \$15,000,000.*

13 *“(8) Recommending federally-assisted projects*
14 *the costs of which exceed \$15,000,000 to include work*
15 *zone intelligent transportation systems that are—*

16 *“(A) provided by a qualified vendor; and*

17 *“(B) monitored continuously.*

18 *“(9) Recommending federally-assisted projects to*
19 *fully fund not less than 5 percent of project costs for*
20 *work zone safety and temporary traffic control meas-*
21 *ures, in addition to the cost of the project, which*
22 *measures shall be provided by a qualified work zone*
23 *safety or traffic control provider.*

24 *“(10) Ensuring that any recommendation made*
25 *under any of paragraphs (7) through (9) provides for*

1 *an exemption for applicability to a State, with re-*
2 *spect to a project or class of projects, to the extent*
3 *that a State notifies the Secretary in writing that*
4 *safety is not expected to be adversely affected by non-*
5 *application of the requirement to the project or class*
6 *of projects.”.*

7 ***SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW***
8 ***OF VEHICULAR TRAFFIC.***

9 *Not later than 1 year after the date of enactment of*
10 *this Act, the Secretary shall promulgate regulations—*

11 *(1) to decrease the probability of worker injury;*

12 *(2) to maintain the free flow of vehicular traffic*
13 *by requiring workers whose duties place the workers*
14 *on, or in close proximity to, a Federal-aid highway*
15 *(as defined in section 101 of title 23, United States*
16 *Code) to wear high-visibility clothing; and*

17 *(3) to require such other worker-safety measures*
18 *for workers described in paragraph (2) as the Sec-*
19 *retary determines appropriate.*

20 ***SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.***

21 *(a) IN GENERAL.—Subchapter I of chapter 1 of title*
22 *23, United States Code (as amended by section 1815(a)),*
23 *is amended by adding at the end the following:*

1 **“§ 178. Identity authentication standards**

2 “(a) *DEFINITION OF INFORMATION-BASED IDENTITY*
3 *AUTHENTICATION.*—*In this section, the term ‘information-*
4 *based identity authentication’ means the determination of*
5 *the identity of an individual, through the comparison of*
6 *information provided by a person, with other information*
7 *pertaining to that individual with a system using scoring*
8 *models and algorithms.*

9 “(b) *STANDARDS.*—*Not later than 180 days after the*
10 *date of enactment of this section, the Secretary, in consulta-*
11 *tion with the Secretary of Homeland Security and the Fed-*
12 *eral Motor Carrier Safety Administration, shall promulgate*
13 *regulations establishing minimum standards for State de-*
14 *partments of motor vehicles regarding the use of informa-*
15 *tion-based identity authentication to determine the identity*
16 *of an applicant for a commercial driver’s license, or the*
17 *renewal, transfer or upgrading, of a commercial driver’s li-*
18 *cense.*

19 “(c) *MINIMUM STANDARDS.*—*The regulations shall, at*
20 *a minimum, require State departments of motor vehicles*
21 *to implement, and applicants for commercial driver’s li-*
22 *censes, (or the renewal, transfer, or upgrading of commer-*
23 *cial driver’s licenses), to comply with, reasonable procedures*
24 *for operating an information-based identity authentication*
25 *program before issuing, renewing, transferring, or upgrad-*
26 *ing a commercial driver’s license.*

1 “(d) *KEY FACTORS.*—*In promulgating regulations*
2 *under this section, the Secretary shall require that an infor-*
3 *mation-based identity authentication program carried out*
4 *under this section establish processes that—*

5 “(1) *use multiple sources of matching informa-*
6 *tion;*

7 “(2) *enable the measurement of the accuracy of*
8 *the determination of an applicant’s identity;*

9 “(3) *support continuous auditing of compliance*
10 *with applicable laws, policies, and practices gov-*
11 *erning the collection, use, and distribution of infor-*
12 *mation in the operation of the program; and*

13 “(4) *incorporate industry best practices to pro-*
14 *tect significant privacy interests in the information*
15 *used in the program and the appropriate safe-*
16 *guarding of the storage of the information.”.*

17 “(b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
18 *chapter I of chapter I of title 23, United States Code (as*
19 *amended by section 1815(b)), is amended by adding at the*
20 *end the following:*

 “178. *Identity authentication standards.”.*

21 **SEC. 1410. OPEN CONTAINER REQUIREMENTS.**

22 *Section 154 of title 23, United States Code, is amended*
23 *by striking subsection (c) and inserting the following:*

24 “(c) *TRANSFER OF FUNDS.*—

1 “(1) *IN GENERAL.*—*The Secretary shall withhold*
 2 *the applicable percentage for the fiscal year of the*
 3 *amount required to be apportioned for Federal-aid*
 4 *highways to any State under each of paragraphs (1),*
 5 *(3), and (4) of section 104(b), if a State has not en-*
 6 *acted or is not enforcing a provision described in sub-*
 7 *section (b), as follows:*

| “For: | The applicable percentage is: |
|--|--------------------------------------|
| <i>Fiscal year 2008</i> | <i>2 percent.</i> |
| <i>Fiscal year 2009</i> | <i>2 percent.</i> |
| <i>Fiscal year 2010</i> | <i>2 percent.</i> |
| <i>Fiscal year 2011 and each subse-</i> <i>quent fiscal year.</i> | <i>2 percent.</i> |

8 “(2) *RESTORATION.*—*If (during the 4-year pe-*
 9 *riod beginning on the date the apportionment for any*
 10 *State is reduced in accordance with this subsection)*
 11 *the Secretary determines that the State has enacted*
 12 *and is enforcing a provision described in subsection*
 13 *(b), the apportionment of the State shall be increased*
 14 *by an amount equal to the amount of the reduction*
 15 *made during the 4-year period.”.*

1 ***Subtitle E—Environmental***
2 ***Planning and Review***

3 ***CHAPTER 1—TRANSPORTATION***

4 ***PLANNING***

5 ***SEC. 1501. INTEGRATION OF NATURAL RESOURCE CON-***
6 ***CERNS INTO STATE AND METROPOLITAN***
7 ***TRANSPORTATION PLANNING.***

8 *(a) METROPOLITAN PLANNING.—Section 134(f) of title*
9 *23, United States Code, is amended—*

10 *(1) in paragraph (1)—*

11 *(A) in subparagraph (D)—*

12 *(i) by inserting after “environment”*
13 *the following: “(including the protection of*
14 *habitat, water quality, and agricultural*
15 *and forest land, while minimizing invasive*
16 *species)”;* and

17 *(ii) by inserting before the semicolon*
18 *the following: “(including minimizing ad-*
19 *verse health effects from mobile source air*
20 *pollution and promoting the linkage of the*
21 *transportation and development goals of the*
22 *metropolitan area)”;* and

23 *(B) in subparagraph (G), by inserting “and*
24 *efficient use” after “preservation”;*

1 (2) *by redesignating paragraph (2) as para-*
2 *graph (3); and*

3 (3) *by inserting after paragraph (1) the fol-*
4 *lowing:*

5 “(2) *SELECTION OF FACTORS.*—*After soliciting*
6 *and considering any relevant public comments, the*
7 *metropolitan planning organization shall determine*
8 *which of the factors described in paragraph (1) are*
9 *most appropriate for the metropolitan area to con-*
10 *sider.”.*

11 (b) *STATEWIDE PLANNING.*—*Section 135(c) of title 23,*
12 *United States Code, is amended—*

13 (1) *in paragraph (1)—*

14 (A) *in subparagraph (D)—*

15 (i) *by inserting after “environment”*
16 *the following: “(including the protection of*
17 *habitat, water quality, and agricultural*
18 *and forest land, while minimizing invasive*
19 *species)”;* and

20 (ii) *by inserting before the semicolon*
21 *the following: “(including minimizing ad-*
22 *verse health effects from mobile source air*
23 *pollution and promoting the linkage of the*
24 *transportation and development goals of the*
25 *State)”;* and

1 (B) in subparagraph (G), by inserting “and
2 efficient use” after “preservation”;

3 (2) by redesignating paragraph (2) as para-
4 graph (3); and

5 (3) by inserting after paragraph (1) the fol-
6 lowing:

7 “(2) *SELECTION OF PROJECTS AND STRATE-*
8 *GIES.—After soliciting and considering any relevant*
9 *public comments, the State shall determine which of*
10 *the projects and strategies described in paragraph (1)*
11 *are most appropriate for the State to consider.”.*

12 **SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION**
13 **AGENCIES AND RESOURCE AGENCIES IN**
14 **TRANSPORTATION PLANNING.**

15 (a) *IN GENERAL.—Section 134(g) of title 23, United*
16 *States Code, is amended—*

17 (1) *in paragraph (2)—*

18 (A) *by redesignating subparagraphs (B)*
19 *through (D) as subparagraphs (C) through (E),*
20 *respectively; and*

21 (B) *by inserting after subparagraph (A) the*
22 *following:*

23 “(B) *MITIGATION ACTIVITIES.—*

1 “(i) *IN GENERAL.*—A long-range trans-
2 portation plan shall include a discussion
3 of—

4 “(I) *types of potential habitat,*
5 *hydrological, and environmental miti-*
6 *gation activities that may assist in*
7 *compensating for loss of habitat, wet-*
8 *land, and other environmental func-*
9 *tions; and*

10 “(II) *potential areas to carry out*
11 *these activities, including a discussion*
12 *of areas that may have the greatest po-*
13 *tential to restore and maintain the*
14 *habitat types and hydrological or envi-*
15 *ronmental functions affected by the*
16 *plan.*

17 “(ii) *CONSULTATION.*—*The discussion*
18 *shall be developed in consultation with Fed-*
19 *eral, State, and tribal wildlife, land man-*
20 *agement, and regulatory agencies.”;*

21 (2) *by redesignating paragraphs (4), (5), and (6)*
22 *as paragraphs (5), (6), and (7), respectively; and*

23 (3) *by inserting after paragraph (3) the fol-*
24 *lowing:*

25 “(4) *CONSULTATION.*—

1 “(A) *IN GENERAL.*—*In each metropolitan*
2 *area, the metropolitan planning organization*
3 *shall consult, as appropriate, with State and*
4 *local agencies responsible for land use manage-*
5 *ment, natural resources, environmental protec-*
6 *tion, conservation, and historic preservation con-*
7 *cerning the development of a long-range trans-*
8 *portation plan.*

9 “(B) *ISSUES.*—*The consultation shall in-*
10 *volve—*

11 “(i) *comparison of transportation*
12 *plans with State conservation plans or with*
13 *maps, if available;*

14 “(ii) *comparison of transportation*
15 *plans to inventories of natural or historic*
16 *resources, if available; or*

17 “(iii) *consideration of areas where*
18 *wildlife crossing structures may be needed*
19 *to ensure connectivity between wildlife habi-*
20 *tat linkage areas.”.*

21 (b) *IMPROVED CONSULTATION DURING STATE TRANS-*
22 *PORTATION PLANNING.*—

23 (1) *IN GENERAL.*—*Section 135(e)(2) of title 23,*
24 *United States Code, is amended by adding at the end*
25 *the following:*

1 “(D) CONSULTATION, COMPARISON, AND
2 CONSIDERATION.—

3 “(i) IN GENERAL.—*The long-range*
4 *transportation plan shall be developed, as*
5 *appropriate, in consultation with State and*
6 *local agencies responsible for—*

7 “(I) *land use management;*

8 “(II) *natural resources;*

9 “(III) *environmental protection;*

10 “(IV) *conservation; and*

11 “(V) *historic preservation.*

12 “(ii) COMPARISON AND CONSIDER-
13 *ATION.—Consultation under clause (i) shall*
14 *involve—*

15 “(I) *comparison of transportation*
16 *plans to State conservation plans or*
17 *maps, if available;*

18 “(II) *comparison of transpor-*
19 *tation plans to inventories of natural*
20 *or historic resources, if available; or*

21 “(III) *consideration of areas*
22 *where wildlife crossing structures may*
23 *be needed to ensure connectivity be-*
24 *tween wildlife habitat linkage areas.”.*

1 (2) *ADDITIONAL REQUIREMENTS.—Section*
2 *135(e) of title 23, United States Code, is amended—*

3 *(A) by redesignating paragraphs (4) and*
4 *(5) as paragraphs (6) and (7), respectively; and*

5 *(B) by inserting after paragraph (3) the fol-*
6 *lowing:*

7 “*(4) MITIGATION ACTIVITIES.—*

8 “*(A) IN GENERAL.—A long-range transpor-*
9 *tation plan shall include a discussion of—*

10 “*(i) types of potential habitat,*
11 *hydrological, and environmental mitigation*
12 *activities that may assist in compensating*
13 *for loss of habitat, wetlands, and other envi-*
14 *ronmental functions; and*

15 “*(ii) potential areas to carry out these*
16 *activities, including a discussion of areas*
17 *that may have the greatest potential to re-*
18 *store and maintain the habitat types and*
19 *hydrological or environmental functions af-*
20 *ected by the plan.*

21 “*(B) CONSULTATION.—The discussion shall*
22 *be developed in consultation with Federal, State,*
23 *and tribal wildlife, land management, and regu-*
24 *latory agencies.*

1 “(5) *TRANSPORTATION STRATEGIES*.—A long-
2 range transportation plan shall identify transpor-
3 tation strategies necessary to efficiently serve the mo-
4 bility needs of people.”.

5 **SEC. 1503. INTEGRATION OF NATURAL RESOURCE CON-**
6 **CERNS INTO TRANSPORTATION PROJECT**
7 **PLANNING.**

8 Section 109(c)(2) of title 23, United States Code, is
9 amended—

10 (1) by striking “consider the results” and insert-
11 ing “consider—

12 “(A) the results”;

13 (2) by striking the period at the end and insert-
14 ing a semicolon; and

15 (3) by adding at the end the following:

16 “(B) the publication entitled ‘Flexibility in
17 Highway Design’ of the Federal Highway Ad-
18 ministration;

19 “(C) ‘Eight Characteristics of Process to
20 Yield Excellence and the Seven Qualities of Ex-
21 cellence in Transportation Design’ developed by
22 the conference held during 1998 entitled ‘Think-
23 ing Beyond the Pavement National Workshop on
24 Integrating Highway Development with Commu-

1 *nities and the Environment while Maintaining*
2 *Safety and Performance’; and*
3 *“(D) any other material that the Secretary*
4 *determines to be appropriate.”.*

5 **SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION**
6 **PLANNING AND PROJECTS.**

7 *(a) METROPOLITAN PLANNING.—*

8 *(1) PARTICIPATION BY INTERESTED PARTIES.—*
9 *Section 134(g)(5) of title 23, United States Code (as*
10 *redesignated by section 1502(a)(1)), is amended—*

11 *(A) by striking “Before approving” and in-*
12 *serting the following:*

13 *“(A) IN GENERAL.—Before approving”; and*

14 *(B) by adding at the end the following:*

15 *“(B) METHODS.—In carrying out subpara-*
16 *graph (A), the metropolitan planning organiza-*
17 *tion shall, to the maximum extent practicable—*

18 *“(i) hold any public meetings at con-*
19 *venient and accessible locations and times;*

20 *“(ii) employ visualization techniques*
21 *to describe plans; and*

22 *“(iii) make public information avail-*
23 *able in electronically accessible format and*
24 *means, such as the World Wide Web.”.*

1 (2) *PUBLICATION OF LONG-RANGE TRANSPOR-*
2 *TATION PLANS.—Section 134(g)(6)(i) of title 23,*
3 *United States Code (as redesignated by section*
4 *1502(a)(1)), is amended by inserting before the semi-*
5 *colon the following: “, including (to the maximum ex-*
6 *tent practicable) in electronically accessible formats*
7 *and means such as the World Wide Web”.*

8 (b) *STATEWIDE PLANNING.—*

9 (1) *PARTICIPATION BY INTERESTED PARTIES.—*
10 *Section 135(e)(3) of title 23, United States Code, is*
11 *amended by striking subparagraph (B) and inserting*
12 *the following:*

13 *“(B) METHODS.—In carrying out subpara-*
14 *graph (A), the State shall, to the maximum ex-*
15 *tent practicable—*

16 *“(i) hold any public meetings at con-*
17 *venient and accessible locations and times;*

18 *“(ii) employ visualization techniques*
19 *to describe plans; and*

20 *“(iii) make public information avail-*
21 *able in electronically accessible format and*
22 *means, such as the World Wide Web.”.*

23 (2) *PUBLICATION OF LONG-RANGE TRANSPOR-*
24 *TATION PLANS.—Section 135(e) of title 23, United*

1 *States Code (as amended by section 1502(b)(2)), is*
2 *amended by adding at the end the following:*

3 “(8) *PUBLICATION OF LONG-RANGE TRANSPOR-*
4 *TATION PLANS.—Each long-range transportation plan*
5 *prepared by a State shall be published or otherwise*
6 *made available, including (to the maximum extent*
7 *practicable) in electronically accessible formats and*
8 *means, such as the World Wide Web.”.*

9 **SEC. 1505. PROJECT MITIGATION.**

10 (a) *MITIGATION FOR NATIONAL HIGHWAY SYSTEM*
11 *PROJECTS.—Section 103(b)(6)(M) of title 23, United States*
12 *Code, is amended—*

13 (1) *by inserting “(i)” after “(M); and*

14 (2) *by adding at the end the following:*

15 “(i) *State habitat, streams, and wetlands*
16 *mitigation efforts under section 155.”.*

17 (b) *MITIGATION FOR SURFACE TRANSPORTATION PRO-*
18 *GRAM PROJECTS.—Section 133(b)(11) of title 23, United*
19 *States Code, is amended—*

20 (1) *by inserting “(A)” after “(11)”; and*

21 (2) *by adding at the end the following:*

22 “(B) *State habitat, streams, and wetlands miti-*
23 *gation efforts under section 155.”.*

1 (c) *STATE HABITAT, STREAMS, AND WETLANDS MITI-*
2 *GATION FUNDS.*—Section 155 of title 23, United States
3 *Code, is amended to read as follows:*

4 **“§ 155. State habitat, streams, and wetlands mitiga-**
5 **tion funds**

6 “(a) *ESTABLISHMENT.*—A State should establish a
7 *habitat, streams, and wetlands mitigation fund (referred to*
8 *in this section as a ‘State fund’).*

9 “(b) *PURPOSE.*—The purpose of a State fund is to en-
10 *courage efforts for habitat, streams, and wetlands mitiga-*
11 *tion in advance of or in conjunction with highway or tran-*
12 *sit projects to—*

13 “(1) *ensure that the best habitat, streams, and*
14 *wetland mitigation sites now available are used; and*

15 “(2) *accelerate transportation project delivery by*
16 *making high-quality habitat, streams, and wetland*
17 *mitigation credits available when needed.*

18 “(c) *FUNDS.*—A State may deposit into a State fund
19 *part of the funds apportioned to the State under—*

20 “(1) *section 104(b)(1) for the National Highway*
21 *System; and*

22 “(2) *section 104(b)(3) for the surface transpor-*
23 *tation program.*

24 “(d) *USE.*—

1 “(1) *IN GENERAL.*—Amounts deposited in a
2 *State fund shall be used (in a manner consistent with*
3 *this section) for habitat, streams, or wetlands mitiga-*
4 *tion related to 1 or more projects funded under this*
5 *title, including a project under the transportation im-*
6 *provement program of the State developed under sec-*
7 *tion 135(f).*

8 “(2) *ENDANGERED SPECIES.*—*In carrying out*
9 *this section, a State and cooperating agency shall give*
10 *consideration to mitigation projects, on-site or off-site,*
11 *that restore and preserve the best available sites to*
12 *conserve biodiversity and habitat for—*

13 “(A) *Federal or State listed threatened or*
14 *endangered species of plants and animals; and*

15 “(B) *plant or animal species warranting*
16 *listing as threatened or endangered, as deter-*
17 *mined by the Secretary of the Interior in accord-*
18 *ance with section 4(b)(3)(B) of the Endangered*
19 *Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).*

20 “(3) *MITIGATION IN CLOSED BASINS.*—

21 “(A) *IN GENERAL.*—*A State may use*
22 *amounts deposited in the State fund for projects*
23 *to protect existing roadways from anticipated*
24 *flooding of a closed basin lake, including—*

25 “(i) *construction—*

1 “(I) necessary for the continu-
2 ation of roadway services and the im-
3 poundment of water, as the State de-
4 termines to be appropriate; or

5 “(II) for a grade raise to perma-
6 nently restore a roadway the use of
7 which is lost or reduced, or could be
8 lost or reduced, as a result of an actual
9 or predicted water level that is within
10 3 feet of causing inundation of the
11 roadway in a closed lake basin;

12 “(ii) monitoring, studies, evaluations,
13 design, or preliminary engineering relating
14 to construction; and

15 “(iii) monitoring and evaluations re-
16 lating to proposed construction.

17 “(B) REIMBURSEMENT.—The Secretary
18 may permit a State that expends funds under
19 subparagraph (A) to be reimbursed for the ex-
20 penditures through the use of amounts made
21 available under section 125(c)(1).

22 “(e) CONSISTENCY WITH APPLICABLE REQUIRE-
23 MENTS.—Contributions from the State fund to mitigation
24 efforts may occur in advance of project construction only

1 *if the efforts are consistent with all applicable requirements*
 2 *of Federal law (including regulations).”.*

3 (d) *CONFORMING AMENDMENT.—The analysis for sub-*
 4 *chapter I of chapter 1 of title 23, United States Code, is*
 5 *amended by striking the item relating to section 155 and*
 6 *inserting the following:*

“155. State habitat, streams, and wetlands mitigation funds.”.

7 **CHAPTER 2—TRANSPORTATION PROJECT**
 8 **DEVELOPMENT PROCESS**

9 **SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT**
 10 **PROCESS.**

11 (a) *IN GENERAL.—Chapter 3 of title 23, United States*
 12 *Code (as amended by section 1203(a)), is amended by in-*
 13 *serting after section 325 the following:*

14 **“§ 326. Transportation project development process**

15 *“(a) DEFINITIONS.—In this section:*

16 *“(1) AGENCY.—The term ‘agency’ means any*
 17 *agency, department, or other unit of Federal, State,*
 18 *local, or federally recognized tribal government.*

19 *“(2) ENVIRONMENTAL IMPACT STATEMENT.—The*
 20 *term ‘environmental impact statement’ means a de-*
 21 *tailed statement of the environmental impacts of a*
 22 *project required to be prepared under the National*
 23 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
 24 *seq.).*

25 *“(3) ENVIRONMENTAL REVIEW PROCESS.—*

1 “(A) *IN GENERAL.*—*The term ‘environ-*
2 *mental review process’ means the process for pre-*
3 *paring, for a project—*

4 “(i) *an environmental impact state-*
5 *ment; or*

6 “(ii) *any other document or analysis*
7 *required to be prepared under the National*
8 *Environmental Policy Act of 1969 (42*
9 *U.S.C. 4321 et seq.)*

10 “(B) *INCLUSIONS.*—*The term ‘environ-*
11 *mental review process’ includes the process for*
12 *and completion of any environmental permit,*
13 *approval, review, or study required for a project*
14 *under any Federal law other than the National*
15 *Environmental Policy Act of 1969 (42 U.S.C.*
16 *4321 et seq.).*

17 “(4) *PROJECT.*—*The term ‘project’ means any*
18 *highway or transit project that requires the approval*
19 *of the Secretary.*

20 “(5) *PROJECT SPONSOR.*—*The term ‘project*
21 *sponsor’ means an agency or other entity (including*
22 *any private or public-private entity), that seeks ap-*
23 *proval of the Secretary for a project.*

24 “(6) *STATE TRANSPORTATION DEPARTMENT.*—
25 *The term ‘State transportation department’ means*

1 *any statewide agency of a State with responsibility*
2 *for transportation.*

3 “(b) *PROCESS.*—

4 “(1) *LEAD AGENCY.*—

5 “(A) *IN GENERAL.*—*The Department of*
6 *Transportation shall be the lead Federal agency*
7 *in the environmental review process for a project.*

8 “(B) *JOINT LEAD AGENCIES.*—*Nothing in*
9 *this section precludes another agency from being*
10 *a joint lead agency in accordance with regula-*
11 *tions under the National Environmental Policy*
12 *Act of 1969 (42 U.S.C. 4321 et seq.).*

13 “(C) *CONCURRENCE OF PROJECT SPON-*
14 *SOR.*—*The lead agency may carry out the envi-*
15 *ronmental review process in accordance with this*
16 *section only with the concurrence of the project*
17 *sponsor.*

18 “(2) *REQUEST FOR PROCESS.*—

19 “(A) *IN GENERAL.*—*A project sponsor may*
20 *request that the lead agency carry out the envi-*
21 *ronmental review process for a project or group*
22 *of projects in accordance with this section.*

23 “(B) *GRANT OF REQUEST; PUBLIC NO-*
24 *TICE.*—*The lead agency shall—*

1 “(i) grant a request under subpara-
2 graph (A); and

3 “(ii) provide public notice of the re-
4 quest.

5 “(3) *EFFECTIVE DATE.*—*The environmental re-*
6 *view process described in this section may be applied*
7 *to a project only after the date on which public notice*
8 *is provided under subparagraph (B)(ii).*

9 “(c) *ROLES AND RESPONSIBILITY OF LEAD AGENCY.*—
10 *With respect to the environmental review process for any*
11 *project, the lead agency shall have authority and responsi-*
12 *bility to—*

13 “(A) identify and invite cooperating agen-
14 cies in accordance with subsection (d);

15 “(B) develop an agency coordination plan
16 with review, schedule, and timelines in accord-
17 ance with subsection (e);

18 “(C) determine the purpose and need for the
19 project in accordance with subsection (f);

20 “(D) determine the range of alternatives to
21 be considered in accordance with subsection (g);

22 “(E) convene dispute-avoidance and deci-
23 sion resolution meetings and related efforts in
24 accordance with subsection (h);

1 “(F) take such other actions as are nec-
2 essary and proper, within the authority of the
3 lead agency, to facilitate the expeditious resolu-
4 tion of the environmental review process for the
5 project; and

6 “(G) prepare or ensure that any required
7 environmental impact statement or other docu-
8 ment required to be completed under the Na-
9 tional Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) is completed in accordance
11 with this section and applicable Federal law.

12 “(d) *ROLES AND RESPONSIBILITIES OF COOPERATING*
13 *AGENCIES.*—

14 “(1) *IN GENERAL.*—With respect to a project,
15 each Federal agency shall carry out any obligations
16 of the Federal agency in the environmental review
17 process in accordance with this section and applicable
18 Federal law.

19 “(2) *INVITATION.*—

20 “(A) *IN GENERAL.*—The lead agency
21 shall—

22 “(i) identify, as early as practicable in
23 the environmental review process for a
24 project, any other agencies that may have
25 an interest in the project, including—

1 “(I) agencies with jurisdiction
2 over environmentally-related matters
3 that may affect the project or may be
4 required by law to conduct an environ-
5 mental-related independent review or
6 analysis of the project or determine
7 whether to issue an environmental-re-
8 lated permit, license, or approval for
9 the project; and

10 “(II) agencies with special exper-
11 tise relevant to the project;

12 “(ii) invite the agencies identified in
13 clause (i) to become participating agencies
14 in the environmental review process for that
15 project; and

16 “(iii) grant requests to become cooper-
17 ating agencies from agencies not originally
18 invited.

19 “(B) RESPONSES.—The deadline for receipt
20 of a response from an agency that receives an in-
21 vitation under subparagraph (A)(ii)—

22 “(i) shall be 30 days after the date of
23 receipt by the agency of the invitation; but

24 “(ii) may be extended by the lead agen-
25 cy for good cause.

1 “(3) *DECLINING OF INVITATIONS.*—A Federal
2 agency that is invited by the lead agency to partici-
3 pate in the environmental review process for a project
4 shall be designated as a cooperating agency by the
5 lead agency, unless the invited agency informs the
6 lead agency in writing, by the deadline specified in
7 the invitation, that the invited agency—

8 “(A) has no jurisdiction or authority with
9 respect to the project;

10 “(B) has no expertise or information rel-
11 evant to the project; and

12 “(C) does not intend to submit comments on
13 the project.

14 “(4) *EFFECT OF DESIGNATION.*—Designation as
15 a cooperating agency under this subsection shall not
16 imply that the cooperating agency—

17 “(A) supports a proposed project; or

18 “(B) has any jurisdiction over, or special
19 expertise with respect to evaluation of, the
20 project.

21 “(5) *DESIGNATIONS FOR CATEGORIES OF*
22 *PROJECTS.*—

23 “(A) *IN GENERAL.*—The Secretary may in-
24 vite other agencies to become cooperating agen-
25 cies for a category of projects.

1 “(B) *DESIGNATION.*—An agency may be
2 designated as a cooperating agency for a cat-
3 egory of projects only with the consent of the
4 agency.

5 “(6) *CONCURRENT REVIEWS.*—Each Federal
6 agency shall, to the maximum extent practicable—

7 “(A) carry out obligations of the Federal
8 agency under other applicable law concurrently,
9 and in conjunction, with the review required
10 under the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.), unless doing so
12 would impair the ability of the Federal agency
13 to carry out those obligations; and

14 “(B) formulate and implement administra-
15 tive, policy, and procedural mechanisms to en-
16 able the agency to ensure completion of the envi-
17 ronmental review process in a timely, coordi-
18 nated, and environmentally responsible manner.

19 “(e) *DEVELOPMENT OF FLEXIBLE PROCESS AND*
20 *TIMELINE.*—

21 “(1) *COORDINATION PLAN.*—

22 “(A) *IN GENERAL.*—The lead agency shall
23 establish a coordination plan, which may be in-
24 corporated into a memorandum of under-
25 standing, to coordinate agency and public par-

1 *icipation in and comment on the environmental*
2 *review process for a project or category of*
3 *projects.*

4 “(B) *WORKPLAN.*—

5 “(i) *IN GENERAL.*—*The lead agency*
6 *shall develop, as part of the coordination*
7 *plan, a workplan for completing the collec-*
8 *tion, analysis, and evaluation of baseline*
9 *data and future impacts modeling necessary*
10 *to complete the environmental review proc-*
11 *ess, including any data, analyses, and mod-*
12 *eling necessary for related permits, approv-*
13 *als, reviews, or studies required for the*
14 *project under other laws.*

15 “(ii) *CONSULTATION.*—*In developing*
16 *the workplan under clause (i), the lead*
17 *agency shall consult with—*

18 “(I) *each cooperating agency for*
19 *the project;*

20 “(II) *the State in which the*
21 *project is located; and*

22 “(III) *if the State is not the*
23 *project sponsor, the project sponsor.*

24 “(C) *SCHEDULE.*—

1 “(i) *IN GENERAL.*—*The lead agency*
2 *shall establish as part of the coordination*
3 *plan, after consultation with each cooper-*
4 *ating agency for the project and with the*
5 *State in which the project is located (and,*
6 *if the State is not the project sponsor, with*
7 *the project sponsor), a schedule for comple-*
8 *tion of the environmental review process for*
9 *the project.*

10 “(ii) *FACTORS FOR CONSIDERATION.*—
11 *In establishing the schedule, the lead agency*
12 *shall consider factors such as—*

13 “(I) *the responsibilities of cooper-*
14 *ating agencies under applicable laws;*

15 “(II) *resources available to the co-*
16 *operating agencies;*

17 “(III) *overall size and complexity*
18 *of a project;*

19 “(IV) *the overall schedule for and*
20 *cost of a project; and*

21 “(V) *the sensitivity of the natural*
22 *and historic resources that could be af-*
23 *fected by the project.*

24 “(D) *CONSISTENCY WITH OTHER TIME PE-*
25 *RIODS.*—*A schedule under subparagraph (C)*

1 *shall be consistent with any other relevant time*
2 *periods established under Federal law.*

3 “(E) *MODIFICATION.—The lead agency*
4 *may—*

5 “(i) *lengthen a schedule established*
6 *under subparagraph (C) for good cause; and*

7 “(ii) *shorten a schedule only with the*
8 *concurrence of the affected cooperating agen-*
9 *cies.*

10 “(F) *DISSEMINATION.—A copy of a schedule*
11 *under subparagraph (C), and of any modifica-*
12 *tions to the schedule, shall be—*

13 “(i) *provided to all cooperating agen-*
14 *cies and to the State transportation depart-*
15 *ment of the State in which the project is lo-*
16 *cated (and, if the State is not the project*
17 *sponsor, to the project sponsor); and*

18 “(ii) *made available to the public.*

19 “(2) *COMMENTS AND TIMELINES.—*

20 “(A) *IN GENERAL.—A schedule established*
21 *under paragraph (1)(C) shall include—*

22 “(i) *opportunities for comment, dead-*
23 *line for receipt of any comments submitted,*
24 *deadline for lead agency response to com-*
25 *ments; and*

1 “(ii) *except as otherwise provided*
2 *under paragraph (1)—*

3 “(I) *an opportunity to comment*
4 *by agencies and the public on a draft*
5 *or final environmental impact state-*
6 *ment for a period of not more than 60*
7 *days longer than the minimum period*
8 *required under the National Environ-*
9 *mental Policy Act of 1969 (42 U.S.C.*
10 *4321 et seq.); and*

11 “(II) *for all other comment peri-*
12 *ods established by the lead agency for*
13 *agency or public comments in the envi-*
14 *ronmental review process, a period of*
15 *not more than the longer of—*

16 “(aa) *30 days after the final*
17 *day of the minimum period re-*
18 *quired under Federal law (includ-*
19 *ing regulations), if available; or*

20 “(bb) *if a minimum period*
21 *is not required under Federal law*
22 *(including regulations), 30 days.*

23 “(B) *EXTENSION OF COMMENT PERIODS.—*

24 *The lead agency may extend a period of com-*

1 *ment established under this paragraph for good*
2 *cause.*

3 “(C) *LATE COMMENTS.*—*A comment con-*
4 *cerning a project submitted under this para-*
5 *graph after the date of termination of the appli-*
6 *cable comment period or extension of a comment*
7 *period shall not be eligible for consideration by*
8 *the lead agency unless the lead agency or project*
9 *sponsor determines there was good cause for the*
10 *delay or the lead agency is required to consider*
11 *significant new circumstances or information in*
12 *accordance with sections 1501.7 and 1502.9 of*
13 *title 40, Code of Federal Regulations.*

14 “(D) *DEADLINES FOR DECISIONS UNDER*
15 *OTHER LAWS.*—*In any case in which a decision*
16 *under any Federal law relating to a project (in-*
17 *cluding the issuance or denial of a permit or li-*
18 *cence) is required to be made by the later of the*
19 *date that is 180 days after the date on which the*
20 *Secretary made all final decisions of the lead*
21 *agency with respect to the project, or 180 days*
22 *after the date on which an application was sub-*
23 *mitted for the permit or license, the Secretary*
24 *shall submit to the Committee on Environment*
25 *and Public Works of the Senate and the Com-*

1 *mittee on Transportation and Infrastructure of*
2 *the House of Representatives—*

3 *“(i) as soon as practicable after the*
4 *180-day period, an initial notice of the fail-*
5 *ure of the Federal agency to make the deci-*
6 *sion; and*

7 *“(ii) every 60 day thereafter until such*
8 *date as all decisions of the Federal agency*
9 *relating to the project have been made by*
10 *the Federal agency, an additional notice*
11 *that describes the number of decisions of the*
12 *Federal agency that remain outstanding as*
13 *of the date of the additional notice.*

14 *“(3) INVOLVEMENT OF THE PUBLIC.—Nothing in*
15 *this subsection shall reduce any time period provided*
16 *for public comment in the environmental review proc-*
17 *ess under existing Federal law (including a regula-*
18 *tion).*

19 *“(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED*
20 *STATEMENT.—*

21 *“(1) IN GENERAL.—With respect to the environ-*
22 *mental review process for a project, the purpose and*
23 *need for the project shall be defined in accordance*
24 *with this subsection.*

1 “(2) *AUTHORITY.*—*The lead agency shall define*
2 *the purpose and need for a project, including the*
3 *transportation objectives and any other objectives in-*
4 *tended to be achieved by the project.*

5 “(3) *INVOLVEMENT OF COOPERATING AGENCIES*
6 *AND THE PUBLIC.*—*Before determining the purpose*
7 *and need for a project, the lead agency shall solicit*
8 *for 30 days, and consider, any relevant comments on*
9 *the draft statement of purpose and need for a pro-*
10 *posed project received from the public and cooperating*
11 *agencies.*

12 “(4) *EFFECT ON OTHER REVIEWS.*—*For the pur-*
13 *pose of compliance with the National Environmental*
14 *Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any*
15 *other law requiring an agency that is not the lead*
16 *agency to determine or consider a project purpose or*
17 *project need, such an agency acting, permitting, or*
18 *approving under, or otherwise applying, Federal law*
19 *with respect to a project shall adopt the determina-*
20 *tion of purpose and need for the project made by the*
21 *lead agency.*

22 “(5) *SAVINGS.*—*Nothing in this subsection pre-*
23 *empts or interferes with any power, jurisdiction, re-*
24 *sponsibility, or authority of an agency under applica-*

1 *ble law (including regulations) with respect to a*
2 *project.*

3 “(6) *CONTENTS.*—

4 “(A) *IN GENERAL.*—*The statement of pur-*
5 *pose and need shall include a clear statement of*
6 *the objectives that the proposed project is in-*
7 *tended to achieve.*

8 “(B) *EFFECT ON EXISTING STANDARDS.*—
9 *Nothing in this subsection shall alter existing*
10 *standards for defining the purpose and need of*
11 *a project.*

12 “(7) *FACTORS TO CONSIDER.*—*The lead agency*
13 *may determine that any of the following factors and*
14 *documents are appropriate for consideration in deter-*
15 *mining the purpose of and need for a project:*

16 “(A) *Transportation plans and related*
17 *planning documents developed through the state-*
18 *wide and metropolitan transportation planning*
19 *process under sections 134 and 135.*

20 “(B) *Land use plans adopted by units of*
21 *State, local, or tribal government (or, in the case*
22 *of Federal land, by the applicable Federal land*
23 *management agencies).*

24 “(C) *Economic development plans adopted*
25 *by—*

1 “(i) units of State, local, or tribal gov-
2 ernment; or

3 “(ii) established economic development
4 planning organizations or authorities.

5 “(D) Environmental protection plans, in-
6 cluding plans for the protection or treatment
7 of—

8 “(i) air quality;

9 “(ii) water quality and runoff;

10 “(iii) habitat needs of plants and ani-
11 mals;

12 “(iv) threatened and endangered spe-
13 cies;

14 “(v) invasive species;

15 “(vi) historic properties; and

16 “(vii) other environmental resources.

17 “(E) Any publicly available plans or poli-
18 cies relating to the national defense, national se-
19 curity, or foreign policy of the United States.

20 “(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

21 “(1) IN GENERAL.—With respect to the environ-
22 mental review process for a project, the alternatives
23 shall be determined in accordance with this sub-
24 section.

1 “(2) *AUTHORITY.*—*The lead agency shall deter-*
2 *mine the alternatives to be considered for a project.*

3 “(3) *INVOLVEMENT OF COOPERATING AGENCIES*
4 *AND THE PUBLIC.*—

5 “(A) *IN GENERAL.*—*Before determining the*
6 *alternatives for a project, the lead agency shall*
7 *solicit for 30 days and consider any relevant*
8 *comments on the proposed alternatives received*
9 *from the public and cooperating agencies.*

10 “(B) *ALTERNATIVES.*—*The lead agency*
11 *shall consider—*

12 “(i) *alternatives that meet the purpose*
13 *and need of the project; and*

14 “(ii) *the alternative of no action.*

15 “(C) *EFFECT ON EXISTING STANDARDS.*—
16 *Nothing in this subsection shall alter the existing*
17 *standards for determining the range of alter-*
18 *natives.*

19 “(4) *EFFECT ON OTHER REVIEWS.*—*Any other*
20 *agency acting under or applying Federal law with re-*
21 *spect to a project shall consider only the alternatives*
22 *determined by the lead agency.*

23 “(5) *SAVINGS.*—*Nothing in this subsection pre-*
24 *empts or interferes with any power, jurisdiction, re-*
25 *sponsibility, or authority of an agency under applica-*

1 *ble law (including regulations) with respect to a*
2 *project.*

3 “(6) *FACTORS TO CONSIDER.—The lead agency*
4 *may determine that any of the following factors and*
5 *documents are appropriate for consideration in deter-*
6 *mining the alternatives for a project:*

7 “(A) *The overall size and complexity of the*
8 *proposed action.*

9 “(B) *The sensitivity of the potentially af-*
10 *ected resources.*

11 “(C) *The overall schedule and cost of the*
12 *project.*

13 “(D) *Transportation plans and related*
14 *planning documents developed through the state-*
15 *wide and metropolitan transportation planning*
16 *process under sections 134 and 135 of title 23 of*
17 *the United States Code.*

18 “(E) *Land use plans adopted by units of*
19 *State, local, or tribal government (or, in the case*
20 *of Federal land, by the applicable Federal land*
21 *management agencies).*

22 “(F) *Economic development plans adopted*
23 *by—*

24 “(i) *units of State, local, or tribal gov-*
25 *ernment; or*

1 “(ii) established economic development
2 planning organizations or authorities.

3 “(G) environmental protection plans, in-
4 cluding plans for the protection or treatment
5 of—

6 “(i) air quality;

7 “(ii) water quality and runoff;

8 “(iii) habitat needs of plants and ani-
9 mals;

10 “(iv) threatened and endangered spe-
11 cies;

12 “(v) invasive species;

13 “(vi) historic properties; and

14 “(vii) other environmental resources.

15 “(H) Any publicly available plans or poli-
16 cies relating to the national defense, national se-
17 curity, or foreign policy of the United States.

18 “(h) *PROMPT ISSUE IDENTIFICATION AND RESOLU-*
19 *TION PROCESS.*—

20 “(1) *IN GENERAL.*—*The lead agency, the project*
21 *sponsor, and the cooperating agencies shall work co-*
22 *operatively, in accordance with this section, to iden-*
23 *tify and resolve issues that could—*

24 “(A) *delay completion of the environmental*
25 *review process; or*

1 “(B) result in denial of any approvals re-
2 quired for the project under applicable laws.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—

4 “(A) IN GENERAL.—The lead agency, with
5 the assistance of the project sponsor, shall make
6 information available to the cooperating agen-
7 cies, as early as practicable in the environmental
8 review process, regarding—

9 “(i) the environmental and socio-
10 economic resources located within the
11 project area; and

12 “(ii) the general locations of the alter-
13 natives under consideration.

14 “(B) BASIS FOR INFORMATION.—Informa-
15 tion about resources in the project area may be
16 based on existing data sources, including geo-
17 graphic information systems mapping.

18 “(3) COOPERATING AGENCY RESPONSIBIL-
19 ITIES.—

20 “(A) IN GENERAL.—Based on information
21 received from the lead agency, cooperating agen-
22 cies shall promptly identify to the lead agency
23 any major issues of concern regarding the poten-
24 tial environmental or socioeconomic impacts of a
25 project.

1 “(B) *MAJOR ISSUES OF CONCERN.*—A
2 *major issue of concern referred to in subpara-*
3 *graph (A) may include any issue that could sub-*
4 *stantially delay or prevent an agency from*
5 *granting a permit or other approval that is*
6 *needed for a project, as determined by a cooper-*
7 *ating agency.*

8 “(4) *ISSUE RESOLUTION.*—*On identification of a*
9 *major issue of concern under paragraph (3), or at*
10 *any time upon the request of a project sponsor or the*
11 *Governor of a State, the lead agency shall promptly*
12 *convene a meeting with representatives of each of the*
13 *relevant cooperating agencies, the project sponsor, and*
14 *the Governor to address and resolve the issue.*

15 “(5) *NOTIFICATION.*—*If a resolution of a major*
16 *issue of concern under paragraph (4) cannot be*
17 *achieved by the date that is 30 days after the date on*
18 *which a meeting under that paragraph is convened,*
19 *the lead agency shall provide notification of the fail-*
20 *ure to resolve the major issue of concern to—*

21 “(A) *the heads of all cooperating agencies;*

22 “(B) *the project sponsor;*

23 “(C) *the Governor involved;*

24 “(D) *the Committee on Environment and*
25 *Public Works of the Senate; and*

1 “(E) *the Committee on Transportation and*
2 *Infrastructure of the House of Representatives.*

3 “(i) *PERFORMANCE MEASUREMENT.*—

4 “(1) *PROGRESS REPORTS.*—*The Secretary shall*
5 *establish a program to measure and report on*
6 *progress toward improving and expediting the plan-*
7 *ning and environmental review process.*

8 “(2) *MINIMUM REQUIREMENTS.*—*The program*
9 *shall include, at a minimum—*

10 “(A) *the establishment of criteria for meas-*
11 *uring consideration of—*

12 “(i) *State and metropolitan planning,*
13 *project planning, and design criteria; and*

14 “(ii) *environmental processing times*
15 *and costs;*

16 “(B) *the collection of data to assess perform-*
17 *ance based on the established criteria; and*

18 “(C) *the annual reporting of the results of*
19 *the performance measurement studies.*

20 “(3) *INVOLVEMENT OF THE PUBLIC AND COOPER-*
21 *ATING AGENCIES.*—

22 “(A) *IN GENERAL.*—*The Secretary shall bi-*
23 *ennially conduct a survey of agencies partici-*
24 *parting in the environmental review process*
25 *under this section to assess the expectations and*

1 *experiences of each surveyed agency with regard*
2 *to the planning and environmental review proc-*
3 *ess for projects reviewed under this section.*

4 “(B) *PUBLIC PARTICIPATION.*—*In con-*
5 *ducting the survey, the Secretary shall solicit*
6 *comments from the public.*

7 “(j) *ASSISTANCE TO AFFECTED FEDERAL AND STATE*
8 *AGENCIES.*—

9 “(1) *IN GENERAL.*—*The Secretary may approve*
10 *a request by a State or recipient to provide funds*
11 *made available under this title for a highway project,*
12 *or made available under chapter 53 of title 49 for a*
13 *mass transit project, to agencies participating in the*
14 *coordinated environmental review process established*
15 *under this section in order to provide the resources*
16 *necessary to meet any time limits established under*
17 *this section.*

18 “(2) *AMOUNTS.*—*Such requests under paragraph*
19 *(1) shall be approved only—*

20 “(A) *for such additional amounts as the*
21 *Secretary determines are necessary for the af-*
22 *ected Federal and State agencies to meet the*
23 *time limits for environmental review; and*

24 “(B) *if those time limits are less than the*
25 *customary time necessary for that review.*

1 “(k) *JUDICIAL REVIEW AND SAVINGS CLAUSE.*—

2 “(1) *JUDICIAL REVIEW.*—*Nothing in this section*
 3 *shall affect the reviewability of any final Federal*
 4 *agency action in any United States district court or*
 5 *State court.*

6 “(2) *SAVINGS CLAUSE.*—*Nothing in this section*
 7 *shall affect—*

8 “(A) *the applicability of the National Envi-*
 9 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*
 10 *seq.) or any other Federal environmental statute;*
 11 *or*

12 “(B) *the responsibility of any Federal offi-*
 13 *cer to comply with or enforce such a statute.”.*

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *The analysis for chapter 3 of title 23, United*
 16 *States Code, is amended by inserting after the item*
 17 *relating to section 325 (as added by section 1203(f))*
 18 *the following:*

“326. *Transportation project development process.*”.

19 (2) *Section 1309 of the Transportation Equity*
 20 *Act for the 21st Century (112 Stat. 232) is repealed.*

21 **SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CAT-**
 22 **EGORICAL EXCLUSIONS.**

23 (a) *IN GENERAL.*—*Chapter 3 of title 23, United States*
 24 *Code (as amended by section 1511(a)), is amended by in-*
 25 *serting after section 326 the following:*

1 **“§ 327. Assumption of responsibility for categorical ex-**
2 **clusions**

3 “(a) *CATEGORICAL EXCLUSION DETERMINATIONS.*—

4 “(1) *IN GENERAL.*—*The Secretary may assign,*
5 *and a State may assume, responsibility for deter-*
6 *mining whether certain designated activities are in-*
7 *cluded within classes of action identified in regula-*
8 *tion by the Secretary that are categorically excluded*
9 *from requirements for environmental assessments or*
10 *environmental impact statements pursuant to regula-*
11 *tions promulgated by the Council on Environmental*
12 *Quality under part 1500 of title 40, Code of Federal*
13 *Regulations (as in effect on October 1, 2003).*

14 “(2) *SCOPE OF AUTHORITY.*—*A determination*
15 *described in paragraph (1) shall be made by a State*
16 *in accordance with criteria established by the Sec-*
17 *retary and only for types of activities specifically des-*
18 *ignated by the Secretary.*

19 “(3) *CRITERIA.*—*The criteria under paragraph*
20 *(2) shall include provisions for public availability of*
21 *information consistent with section 552 of title 5 and*
22 *the National Environmental Policy Act of 1969 (42*
23 *U.S.C. 4321 et seq.).*

24 “(b) *OTHER APPLICABLE FEDERAL LAWS.*—

25 “(1) *IN GENERAL.*—*If a State assumes responsi-*
26 *bility under subsection (a), the Secretary may also*

1 *assign and the State may assume all or part of the*
2 *responsibilities of the Secretary for environmental re-*
3 *view, consultation, or other related actions required*
4 *under any Federal law applicable to activities that*
5 *are classified by the Secretary as categorical exclu-*
6 *sions, with the exception of government-to-government*
7 *consultation with Indian tribes, subject to the same*
8 *procedural and substantive requirements as would be*
9 *required if that responsibility were carried out by the*
10 *Secretary.*

11 “(2) *SOLE RESPONSIBILITY.*—*A State that as-*
12 *sumes responsibility under paragraph (1) with re-*
13 *spect to a Federal law shall be solely responsible and*
14 *solely liable for complying with and carrying out that*
15 *law, and the Secretary shall have no such responsi-*
16 *bility or liability.*

17 “(c) *MEMORANDA OF UNDERSTANDING.*—

18 “(1) *IN GENERAL.*—*The Secretary and the State,*
19 *after providing public notice and opportunity for*
20 *comment, shall enter into a memorandum of under-*
21 *standing setting forth the responsibilities to be as-*
22 *signed under this section and the terms and condi-*
23 *tions under which the assignments are made, includ-*
24 *ing establishment of the circumstances under which*

1 *the Secretary would reassume responsibility for cat-*
2 *egorical exclusion determinations.*

3 “(2) *TERM.—A memorandum of under-*
4 *standing—*

5 “(A) *shall have term of not more than 3*
6 *years; and*

7 “(B) *shall be renewable.*

8 “(3) *ACCEPTANCE OF JURISDICTION.—In a*
9 *memorandum of understanding, the State shall con-*
10 *sent to accept the jurisdiction of the Federal courts for*
11 *the compliance, discharge, and enforcement of any re-*
12 *sponsibility of the Secretary that the State assumes.*

13 “(4) *MONITORING.—The Secretary shall—*

14 “(A) *monitor compliance by the State with*
15 *the memorandum of understanding and the pro-*
16 *vision by the State of financial resources to*
17 *carry out the memorandum of understanding;*
18 *and*

19 “(B) *take into account the performance by*
20 *the State when considering renewal of the memo-*
21 *randum of understanding.*

22 “(d) *TERMINATION.—The Secretary may terminate*
23 *any assumption of responsibility under a memorandum of*
24 *understanding on a determination that the State is not ade-*

1 *quately carrying out the responsibilities assigned to the*
 2 *State.*

3 “(e) *STATE AGENCY DEEMED TO BE FEDERAL AGEN-*
 4 *CY.—A State agency that is assigned a responsibility under*
 5 *a memorandum of understanding shall be deemed to be a*
 6 *Federal agency for the purposes of the Federal law under*
 7 *which the responsibility is exercised.”.*

8 (b) *CONFORMING AMENDMENT.—The analysis for*
 9 *chapter 3 of title 23, United States Code (as amended by*
 10 *section 1511(b)), is amended by inserting after the item re-*
 11 *lating to section 326 the following:*

“327. Assumption of responsibility for categorical exclusions.”.

12 **SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY**
 13 **PILOT PROGRAM.**

14 (a) *IN GENERAL.—Chapter 3 of title 23, United States*
 15 *Code (as amended by section 1512(a)), is amended by in-*
 16 *serting after section 327 the following:*

17 **“§ 328. Surface transportation project delivery pilot**
 18 **program**

19 “(a) *ESTABLISHMENT.—*

20 “(1) *IN GENERAL.—The Secretary shall carry*
 21 *out a surface transportation project delivery pilot*
 22 *program (referred to in this section as the ‘program’).*

23 “(2) *ASSUMPTION OF RESPONSIBILITY.—*

24 “(A) *IN GENERAL.—Subject to the other*
 25 *provisions of this section, with the written agree-*

1 *ment of the Secretary and a State, which may*
2 *be in the form of a memorandum of under-*
3 *standing, the Secretary may assign, and the*
4 *State may assume, the responsibilities of the Sec-*
5 *retary with respect to 1 or more highway*
6 *projects within the State under the National En-*
7 *vironmental Policy Act of 1969 (42 U.S.C. 4321*
8 *et seq.).*

9 “(B) *ADDITIONAL RESPONSIBILITY.—If a*
10 *State assumes responsibility under subparagraph*
11 *(A)—*

12 “(i) *the Secretary may assign to the*
13 *State, and the State may assume, all or*
14 *part of the responsibilities of the Secretary*
15 *for environmental review, consultation, or*
16 *other action required under any Federal en-*
17 *vironmental law pertaining to the review or*
18 *approval of a specific project; but*

19 “(ii) *the Secretary may not assign—*

20 “(I) *responsibility for any con-*
21 *formity determination required under*
22 *section 176 of the Clean Air Act (42*
23 *U.S.C. 7506); or*

24 “(II) *any responsibility imposed*
25 *on the Secretary by section 134 or 135.*

1 “(C) *PROCEDURAL AND SUBSTANTIVE RE-*
2 *QUIREMENTS.*—*A State shall assume responsi-*
3 *bility under this section subject to the same pro-*
4 *cedural and substantive requirements as would*
5 *apply if that responsibility were carried out by*
6 *the Secretary.*

7 “(D) *FEDERAL RESPONSIBILITY.*—*Any re-*
8 *sponsibility of the Secretary not explicitly as-*
9 *sumed by the State by written agreement under*
10 *this section shall remain the responsibility of the*
11 *Secretary.*

12 “(E) *NO EFFECT ON AUTHORITY.*—*Nothing*
13 *in this section preempts or interferes with any*
14 *power, jurisdiction, responsibility, or authority*
15 *of an agency, other than the Department of*
16 *Transportation, under applicable law (including*
17 *regulations) with respect to a project.*

18 “(b) *STATE PARTICIPATION.*—

19 “(1) *NUMBER OF PARTICIPATING STATES.*—*The*
20 *Secretary may permit not more than 5 States (in-*
21 *cluding the State of Oklahoma) to participate in the*
22 *program.*

23 “(2) *APPLICATION.*—*Not later than 270 days*
24 *after the date of enactment of this section, the Sec-*
25 *retary shall promulgate regulations that establish re-*

1 *quirements relating to information required to be con-*
2 *tained in any application of a State to participate*
3 *in the program, including, at a minimum—*

4 *“(A) the projects or classes of projects for*
5 *which the State anticipates exercising the au-*
6 *thority that may be granted under the program;*

7 *“(B) verification of the financial resources*
8 *necessary to carry out the authority that may be*
9 *granted under the program; and*

10 *“(C) evidence of the notice and solicitation*
11 *of public comment by the State relating to par-*
12 *ticipation of the State in the program, including*
13 *copies of comments received from that sollicita-*
14 *tion.*

15 *“(3) PUBLIC NOTICE.—*

16 *“(A) IN GENERAL.—Each State that sub-*
17 *mits an application under this subsection shall*
18 *give notice of the intent of the State to partici-*
19 *pate in the program not later than 30 days be-*
20 *fore the date of submission of the application.*

21 *“(B) METHOD OF NOTICE AND SOLICITA-*
22 *TION.—The State shall provide notice and solicit*
23 *public comment under this paragraph by pub-*
24 *lishing the complete application of the State in*

1 *accordance with the appropriate public notice*
2 *law of the State.*

3 “(4) *SELECTION CRITERIA.*—*The Secretary may*
4 *approve the application of a State under this section*
5 *only if—*

6 “(A) *the regulatory requirements under*
7 *paragraph (2) have been met;*

8 “(B) *the Secretary determines that the State*
9 *has the capability, including financial and per-*
10 *sonnel, to assume the responsibility; and*

11 “(C) *the head of the State agency having*
12 *primary jurisdiction over highway matters en-*
13 *ters into a written agreement with the Secretary*
14 *described in subsection (c).*

15 “(5) *OTHER FEDERAL AGENCY VIEWS.*—*If a*
16 *State applies to assume a responsibility of the Sec-*
17 *retary that would have required the Secretary to con-*
18 *sult with another Federal agency, the Secretary shall*
19 *solicit the views of the Federal agency before approv-*
20 *ing the application.*

21 “(c) *WRITTEN AGREEMENT.*—*A written agreement*
22 *under this section shall—*

23 “(1) *be executed by the Governor or the top-rank-*
24 *ing transportation official in the State who is charged*
25 *with responsibility for highway construction;*

1 “(2) be in such form as the Secretary may pre-
2 scribe;

3 “(3) provide that the State—

4 “(A) agrees to assume all or part of the re-
5 sponsibilities of the Secretary described in sub-
6 section (a);

7 “(B) expressly consents, on behalf of the
8 State, to accept the jurisdiction of the Federal
9 courts for the compliance, discharge, and enforce-
10 ment of any responsibility of the Secretary as-
11 sumed by the State;

12 “(C) certifies that State laws (including
13 regulations) are in effect that—

14 “(i) authorize the State to take the ac-
15 tions necessary to carry out the responsibil-
16 ities being assumed; and

17 “(ii) are comparable to section 552 of
18 title 5, including providing that any deci-
19 sion regarding the public availability of a
20 document under those State laws is review-
21 able by a court of competent jurisdiction;
22 and

23 “(D) agrees to maintain the financial re-
24 sources necessary to carry out the responsibilities
25 being assumed.

1 “(d) *JURISDICTION.*—

2 “(1) *IN GENERAL.*—*The United States district*
3 *courts shall have exclusive jurisdiction over any civil*
4 *action against a State for failure to carry out any re-*
5 *sponsibility of the State under this section.*

6 “(2) *LEGAL STANDARDS AND REQUIREMENTS.*—
7 *A civil action under paragraph (1) shall be governed*
8 *by the legal standards and requirements that would*
9 *apply in such a civil action against the Secretary*
10 *had the Secretary taken the actions in question.*

11 “(3) *INTERVENTION.*—*The Secretary shall have*
12 *the right to intervene in any action described in*
13 *paragraph (1).*

14 “(e) *EFFECT OF ASSUMPTION OF RESPONSIBILITY.*—
15 *A State that assumes responsibility under subsection (a)(2)*
16 *shall be solely responsible and solely liable for carrying out,*
17 *in lieu of the Secretary, the responsibilities assumed under*
18 *subsection (a)(2), until the program is terminated as pro-*
19 *vided in subsection (i).*

20 “(f) *LIMITATIONS ON AGREEMENTS.*—*Nothing in this*
21 *section permits a State to assume any rulemaking author-*
22 *ity of the Secretary under any Federal law.*

23 “(g) *AUDITS.*—

24 “(1) *IN GENERAL.*—*To ensure compliance by a*
25 *State with any agreement of the State under sub-*

1 *section (c)(1) (including compliance by the State with*
2 *all Federal laws for which responsibility is assumed*
3 *under subsection (a)(2)), for each State participating*
4 *in the program under this section, the Secretary shall*
5 *conduct—*

6 *“(A) semiannual audits during each of the*
7 *first 2 years of State participation; and*

8 *“(B) annual audits during each subsequent*
9 *year of State participation.*

10 *“(2) PUBLIC AVAILABILITY AND COMMENT.—*

11 *“(A) IN GENERAL.—An audit conducted*
12 *under paragraph (1) shall be provided to the*
13 *public for comment.*

14 *“(B) RESPONSE.—Not later than 60 days*
15 *after the date on which the period for public*
16 *comment ends, the Secretary shall respond to*
17 *public comments received under subparagraph*
18 *(A).*

19 *“(h) REPORT TO CONGRESS.—The Secretary shall sub-*
20 *mit to Congress an annual report that describes the admin-*
21 *istration of the program.*

22 *“(i) TERMINATION.—*

23 *“(1) IN GENERAL.—Except as provided in para-*
24 *graph (2), the program shall terminate on the date*

1 *that is 6 years after the date of enactment of this sec-*
2 *tion.*

3 “(2) *TERMINATION BY SECRETARY.*—*The Sec-*
4 *retary may terminate the participation of any State*
5 *in the program if—*

6 “(A) *the Secretary determines that the State*
7 *is not adequately carrying out the responsibil-*
8 *ities assigned to the State;*

9 “(B) *the Secretary provides to the State—*

10 “(i) *notification of the determination*
11 *of noncompliance; and*

12 “(ii) *a period of at least 30 days dur-*
13 *ing which to take such corrective action as*
14 *the Secretary determines is necessary to*
15 *comply with the applicable agreement; and*

16 “(C) *the State, after the notification and*
17 *period provided under subparagraph (B), fails to*
18 *take satisfactory corrective action, as determined*
19 *by Secretary.”.*

20 (b) *CONFORMING AMENDMENT.*—*The analysis for*
21 *chapter 3 of title 23, United States Code (as amended by*
22 *section 1512(b)), is amended by inserting after the item re-*
23 *lating to section 327 the following:*

 “328. *Surface transportation project delivery pilot program.”.*

1 **SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WA-**
2 **TERFOWL REFUGES, AND HISTORIC SITES.**

3 (a) *PROGRAMS AND PROJECTS WITH DE MINIMIS IM-*
4 *PACTS.*—

5 (1) *TITLE 23.*—Section 138 of title 23, United
6 States Code, is amended—

7 (A) in the first sentence, by striking “It is
8 hereby” and inserting the following:

9 “(a) *DECLARATION OF POLICY.*—It is”; and

10 (B) by adding at the end the following:

11 “(b) *DE MINIMIS IMPACTS.*—

12 “(1) *REQUIREMENTS.*—

13 “(A) *IN GENERAL.*—The requirements of
14 this section shall be considered to be satisfied
15 with respect to an area described in paragraph
16 (2) or (3) if the Secretary determines, in accord-
17 ance with this subsection, that a transportation
18 program or project will have a de minimis im-
19 pact on the area.

20 “(B) *CRITERIA.*—In making any deter-
21 mination under this subsection, the Secretary
22 shall consider to be part of a transportation pro-
23 gram or project any avoidance, minimization,
24 mitigation, or enhancement measures that are
25 required to be implemented as a condition of ap-
26 proval of the transportation program or project.

1 “(2) *HISTORIC SITES.*—*With respect to historic*
2 *sites, the Secretary may make a finding of de mini-*
3 *mis impact only if—*

4 “(A) *the Secretary has determined, in ac-*
5 *cordance with the consultation process required*
6 *under section 106 of the National Historic Pres-*
7 *ervation Act (16 U.S.C. 470f), that—*

8 “(i) *the transportation program or*
9 *project will have no adverse effect on the*
10 *historic site; or*

11 “(ii) *there will be no historic prop-*
12 *erties affected by the transportation pro-*
13 *gram or project;*

14 “(B) *the finding of the Secretary has re-*
15 *ceived written concurrence from the applicable*
16 *State historic preservation officer or tribal his-*
17 *toric preservation officer (and from the Advisory*
18 *Council on Historic Preservation, if partici-*
19 *pating in the consultation); and*

20 “(C) *the finding of the Secretary has been*
21 *developed in consultation with parties consulting*
22 *as part of the process referred to in subpara-*
23 *graph (A).*

24 “(3) *PARKS, RECREATION AREAS, AND WILDLIFE*
25 *AND WATERFOWL REFUGES.*—*With respect to parks,*

1 recreation areas, and wildlife or waterfowl refuges,
 2 the Secretary may make a finding of de minimis im-
 3 pact only if—

4 “(A) the Secretary has determined, in ac-
 5 cordance with the National Environmental Pol-
 6 icy Act of 1969 (42 U.S.C. 4321 et seq.) (includ-
 7 ing public notice and opportunity for public re-
 8 view and comment), that the transportation pro-
 9 gram or project will not adversely affect the ac-
 10 tivities, features, and attributes of the park,
 11 recreation area, or wildlife or waterfowl refuge
 12 eligible for protection under this section; and

13 “(B) the finding of the Secretary has re-
 14 ceived concurrence from the officials with juris-
 15 diction over the park, recreation area, or wildlife
 16 or waterfowl refuge.”.

17 (2) *TITLE 49.—Section 303 of title 49, United*
 18 *States Code, is amended—*

19 (A) by striking “(c) The Secretary” and in-
 20 serting the following:

21 “(c) *APPROVAL OF PROGRAMS AND PROJECTS.—Sub-*
 22 *ject to subsection (d), the Secretary*”; and

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

24 “(d) *DE MINIMIS IMPACTS.—*

25 “(1) *REQUIREMENTS.—*

1 “(A) *IN GENERAL.*—*The requirements of*
2 *this section shall be considered to be satisfied*
3 *with respect to an area described in paragraph*
4 *(2) or (3) if the Secretary determines, in accord-*
5 *ance with this subsection, that a transportation*
6 *program or project will have a de minimis im-*
7 *act on the area.*

8 “(B) *CRITERIA.*—*In making any deter-*
9 *mination under this subsection, the Secretary*
10 *shall consider to be part of a transportation pro-*
11 *gram or project any avoidance, minimization,*
12 *mitigation, or enhancement measures that are*
13 *required to be implemented as a condition of ap-*
14 *proval of the transportation program or project.*

15 “(2) *HISTORIC SITES.*—*With respect to historic*
16 *sites, the Secretary may make a finding of de mini-*
17 *mis impact only if—*

18 “(A) *the Secretary has determined, in ac-*
19 *cordance with the consultation process required*
20 *under section 106 of the National Historic Pres-*
21 *ervation Act (16 U.S.C. 470f), that—*

22 “(i) *the transportation program or*
23 *project will have no adverse effect on the*
24 *historic site; or*

1 “(ii) there will be no historic prop-
2 erties affected by the transportation pro-
3 gram or project;

4 “(B) the finding of the Secretary has re-
5 ceived written concurrence from the applicable
6 State historic preservation officer or tribal his-
7 toric preservation officer (and from the Advisory
8 Council on Historic Preservation, if partici-
9 pating in the consultation); and

10 “(C) the finding of the Secretary has been
11 developed in consultation with parties consulting
12 as part of the process referred to in subpara-
13 graph (A).

14 “(3) *PARKS, RECREATION AREAS, AND WILDLIFE*
15 *AND WATERFOWL REFUGES.*—With respect to parks,
16 recreation areas, and wildlife or waterfowl refuges,
17 the Secretary may make a finding of *de minimis im-*
18 *pact only if—*

19 “(A) the Secretary has determined, in ac-
20 cordance with the National Environmental Pol-
21 icy Act of 1969 (42 U.S.C. 4321 *et seq.*) (includ-
22 ing public notice and opportunity for public re-
23 view and comment), that the transportation pro-
24 gram or project will not adversely affect the ac-
25 tivities, features, and attributes of the park,

1 *recreation area, or wildlife or waterfowl refuge*
2 *eligible for protection under this section; and*

3 “(B) *the finding of the Secretary has re-*
4 *ceived concurrence from the officials with juris-*
5 *isdiction over the park, recreation area, or wildlife*
6 *or waterfowl refuge.”.*

7 **(b) CLARIFICATION OF EXISTING STANDARDS.—**

8 **(1) IN GENERAL.—***Not later than 1 year after*
9 *the date of enactment of this Act, the Secretary shall*
10 *(in consultation with affected agencies and interested*
11 *parties) promulgate regulations that clarify the fac-*
12 *tors to be considered and the standards to be applied*
13 *in determining the prudence and feasibility of alter-*
14 *natives under section 138 of title 23 and section 303*
15 *of title 49, United States Code.*

16 **(2) REQUIREMENTS.—***The regulations—*

17 **(A)** *shall clarify the application of the legal*
18 *standards to a variety of different types of trans-*
19 *portation programs and projects depending on*
20 *the circumstances of each case; and*

21 **(B)** *may include, as appropriate, examples*
22 *to facilitate clear and consistent interpretation*
23 *by agency decisionmakers.*

24 **(c) IMPLEMENTATION STUDY.—**

1 (1) *IN GENERAL.*—*The Secretary and the Trans-*
2 *portation Research Board of the National Academy of*
3 *Sciences shall jointly conduct a study on the imple-*
4 *mentation of this section and the amendments made*
5 *by this section.*

6 (2) *COMPONENTS.*—*In conducting the study, the*
7 *Secretary and the Transportation Research Board*
8 *shall evaluate—*

9 (A) *the processes developed under this sec-*
10 *tion and the amendments made by this section*
11 *and the efficiencies that may result;*

12 (B) *the post-construction effectiveness of im-*
13 *pact mitigation and avoidance commitments*
14 *adopted as part of projects conducted under this*
15 *section and the amendments made by this sec-*
16 *tion; and*

17 (C) *the quantity of projects with impacts*
18 *that are considered de minimis under this sec-*
19 *tion and the amendments made by this section,*
20 *including information on the location, size, and*
21 *cost of the projects.*

22 (3) *REPORT REQUIREMENT.*—*The Secretary and*
23 *the Transportation Research Board shall prepare—*

24 (A) *not earlier than the date that is 4 years*
25 *after the date of enactment of this Act, a report*

1 *on the results of the study conducted under this*
2 *subsection; and*

3 *(B) not later than September 30, 2009, an*
4 *update on the report required under subpara-*
5 *graph (A).*

6 *(4) REPORT RECIPIENTS.—The Secretary and*
7 *the Transportation Research Board shall—*

8 *(A) submit the report and update required*
9 *under paragraph (3) to—*

10 *(i) the appropriate committees of Con-*
11 *gress;*

12 *(ii) the Secretary of the Interior; and*

13 *(iii) the Advisory Council on Historic*
14 *Preservation; and*

15 *(B) make the report and update available to*
16 *the public.*

17 **SEC. 1515. REGULATIONS.**

18 *Except as provided in section 1513, not later than 1*
19 *year after the date of enactment of this Act, the Secretary*
20 *shall promulgate regulations necessary to implement the*
21 *amendments made by chapter 1 and this chapter.*

22 **CHAPTER 3—MISCELLANEOUS**

23 **SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

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

1 “(d) *CRITICAL REAL PROPERTY ACQUISITION.*—

2 “(1) *IN GENERAL.*—*Subject to paragraph (2),*
3 *funds apportioned to a State under this title may be*
4 *used to pay the costs of acquiring any real property*
5 *that is determined to be critical under paragraph (2)*
6 *for a project proposed for funding under this title.*

7 “(2) *REIMBURSEMENT.*—*The Federal share of*
8 *the costs referred to in paragraph (1) shall be eligible*
9 *for reimbursement out of funds apportioned to a State*
10 *under this title if, before the date of acquisition, the*
11 *Secretary determines that—*

12 “(A) *the property is offered for sale on the*
13 *open market;*

14 “(B) *in acquiring the property, the State*
15 *will comply with the Uniform Relocation Assist-*
16 *ance and Real Property Acquisition Policies Act*
17 *of 1970 (42 U.S.C. 4601 et seq.); and*

18 “(C) *immediate acquisition of the property*
19 *is critical because—*

20 “(i) *based on an appraisal of the prop-*
21 *erty, the value of the property is increasing*
22 *significantly;*

23 “(ii) *there is an imminent threat of de-*
24 *velopment or redevelopment of the property;*
25 *and*

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

4 “(3) *APPLICABLE LAW.*—An acquisition of real
5 property under this section shall be considered to be
6 an exempt project under section 176 of the Clean Air
7 Act (42 U.S.C. 7506).

8 “(4) *ENVIRONMENTAL REVIEW.*—

9 “(A) *IN GENERAL.*—A project proposed to
10 be conducted under this title shall not be con-
11 ducted on property acquired under paragraph
12 (1) until all required environmental reviews for
13 the project have been completed.

14 “(B) *EFFECT ON CONSIDERATION OF*
15 *PROJECT ALTERNATIVES.*—The number of crit-
16 ical acquisitions of real property associated with
17 a project shall not affect the consideration of
18 project alternatives during the environmental re-
19 view process.

20 “(5) *PROCEEDS FROM THE SALE OR LEASE OF*
21 *REAL PROPERTY.*—Section 156(c) shall not apply to
22 the sale, use, or lease of any real property acquired
23 under paragraph (1).”.

1 **SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

2 *Section 104 of title 23, United States Code, is amended*
3 *by adding at the end the following:*

4 *“(m) PLANNING CAPACITY BUILDING INITIATIVE.—*

5 *“(1) IN GENERAL.—The Secretary shall carry*
6 *out a planning capacity building initiative to sup-*
7 *port enhancements in transportation planning to—*

8 *“(A) strengthen the processes and products*
9 *of metropolitan and statewide transportation*
10 *planning under this title;*

11 *“(B) enhance tribal capacity to conduct*
12 *joint transportation planning under chapter 2;*

13 *“(C) participate in the metropolitan and*
14 *statewide transportation planning programs*
15 *under this title; and*

16 *“(D) increase the knowledge and skill level*
17 *of participants in metropolitan and statewide*
18 *transportation.*

19 *“(2) PRIORITY.—The Secretary shall give pri-*
20 *ority to planning practices and processes that sup-*
21 *port—*

22 *“(A) the transportation elements of home-*
23 *land security planning, including—*

24 *“(i) training and best practices relat-*
25 *ing to emergency evacuation;*

1 “(ii) developing materials to assist
2 areas in coordinating emergency manage-
3 ment and transportation officials; and

4 “(iii) developing training on how
5 planning organizations may examine secu-
6 rity issues;

7 “(B) performance-based planning, includ-
8 ing—

9 “(i) data and data analysis tech-
10 nologies to be shared with States, metropoli-
11 tan planning organizations, local govern-
12 ments, and nongovernmental organizations
13 that—

14 “(I) participate in transportation
15 planning;

16 “(II) use the data and data anal-
17 ysis to engage in metropolitan, tribal,
18 or statewide transportation planning;

19 “(III) involve the public in the de-
20 velopment of transportation plans,
21 projects, and alternative scenarios; and

22 “(IV) develop strategies to avoid,
23 minimize, and mitigate the impacts of
24 transportation facilities and projects;
25 and

1 “(ii) improvement of the quality of
2 congestion management systems, including
3 the development of—

4 “(I) a measure of congestion;

5 “(II) a measure of transportation
6 system reliability; and

7 “(III) a measure of induced de-
8 mand;

9 “(C) safety planning, including—

10 “(i) development of State strategic
11 safety plans consistent with section 148;

12 “(ii) incorporation of work zone safety
13 into planning; and

14 “(iii) training in the development of
15 data systems relating to highway safety;

16 “(D) operations planning, including—

17 “(i) developing training of the integra-
18 tion of transportation system operations
19 and management into the transportation
20 planning process; and

21 “(ii) training and best practices relat-
22 ing to regional concepts of operations;

23 “(E) freight planning, including—

24 “(i) modeling of freight at a regional
25 and statewide level; and

1 “(ii) techniques for engaging the
2 freight community with the planning proc-
3 ess;

4 “(F) air quality planning, including—

5 “(i) assisting new and existing non-
6 attainment and maintenance areas in de-
7 veloping the technical capacity to perform
8 air quality conformity analysis;

9 “(ii) providing training on areas such
10 as modeling and data collection to support
11 air quality planning and analysis;

12 “(iii) developing concepts and tech-
13 niques to assist areas in meeting air quality
14 performance timeframes; and

15 “(iv) developing materials to explain
16 air quality issues to decisionmakers and the
17 public; and

18 “(G) integration of environment and plan-
19 ning.

20 “(3) USE OF FUNDS.—The Secretary shall use
21 amounts made available under paragraph (4) to
22 make grants to, or enter into contracts, cooperative
23 agreements, and other transactions with, a Federal
24 agency, State agency, local agency, federally recog-
25 nized Indian tribal government or tribal consortium,

1 *authority, association, nonprofit or for-profit corpora-*
 2 *tion, or institution of higher education for research,*
 3 *program development, information collection and dis-*
 4 *semination, and technical assistance.*

5 “(4) *SET-ASIDE.*—

6 “(A) *IN GENERAL.*—On October 1 of each
 7 *fiscal year, of the funds made available under*
 8 *subsection (a), the Secretary shall set aside*
 9 *\$4,000,000 to carry out this subsection.*

10 “(B) *FEDERAL SHARE.*—The Federal share
 11 *of the cost of an activity carried out using funds*
 12 *made available under subparagraph (A) shall be*
 13 *100 percent.*

14 “(C) *AVAILABILITY.*—Funds made available
 15 *under subparagraph (A) shall remain available*
 16 *until expended.”.*

17 ***Subtitle F—Environment***

18 ***SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLU-*** 19 ***TION ABATEMENT; CONTROL OF INVASIVE*** 20 ***PLANT SPECIES AND ESTABLISHMENT OF NA-*** 21 ***TIVE SPECIES.***

22 (a) *MODIFICATION TO NHS/STP FOR ENVIRON-*
 23 *MENTAL RESTORATION, POLLUTION ABATEMENT, AND*
 24 *INVASIVE SPECIES.*—

1 (1) *MODIFICATIONS TO NATIONAL HIGHWAY SYS-*
2 *TEM.—Section 103(b)(6) of title 23, United States*
3 *Code, is amended by adding at the end the following:*

4 “(Q) *Environmental restoration and pollu-*
5 *tion abatement in accordance with section 165.*

6 “(R) *Control of invasive plant species and*
7 *establishment of native species in accordance*
8 *with section 166.”.*

9 (2) *MODIFICATIONS TO SURFACE TRANSPOR-*
10 *TATION PROGRAM.—Section 133(b) of title 23, is*
11 *amended by striking paragraph (14) and inserting*
12 *the following:*

13 “(14) *Environmental restoration and pollution*
14 *abatement in accordance with section 165.*

15 “(15) *Control of invasive plant species and es-*
16 *tablishment of native species in accordance with sec-*
17 *tion 166.”.*

18 (b) *ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1*
19 *of title 23, United States Code, is amended by adding at*
20 *the end the following:*

21 **“§ 165. Eligibility for environmental restoration and**
22 ***pollution abatement***

23 “(a) *IN GENERAL.—Subject to subsection (b), environ-*
24 *mental restoration and pollution abatement to minimize or*
25 *mitigate the impacts of any transportation project funded*

1 *under this title (including retrofitting and construction of*
2 *storm water treatment systems to meet Federal and State*
3 *requirements under sections 401 and 402 of the Federal*
4 *Water Pollution Control Act (33 U.S.C. 1341, 1342)) may*
5 *be carried out to address water pollution or environmental*
6 *degradation caused wholly or partially by a transportation*
7 *facility.*

8 “(b) *MAXIMUM EXPENDITURE.*—*In a case in which a*
9 *transportation facility is undergoing reconstruction, reha-*
10 *ilitation, resurfacing, or restoration, the expenditure of*
11 *funds under this section for environmental restoration or*
12 *pollution abatement described in subsection (a) shall not*
13 *exceed 20 percent of the total cost of the reconstruction, re-*
14 *habilitation, resurfacing, or restoration of the facility.*

15 **“§ 166. Control of invasive plant species and establish-**
16 **ment of native species**

17 “(a) *DEFINITIONS.*—*In this section:*

18 “(1) *INVASIVE PLANT SPECIES*—*The term*
19 *‘invasive plant species’ means a nonindigenous spe-*
20 *cies the introduction of which causes or is likely to*
21 *cause economic or environmental harm or harm to*
22 *human health.*

23 “(2) *NATIVE PLANT SPECIES.*—*The term ‘native*
24 *plant species’ means, with respect to a particular eco-*
25 *system, a species that, other than as result of an in-*

1 *roduction, historically occurred or currently occurs*
2 *in that ecosystem.*

3 “(b) *CONTROL OF SPECIES.*—

4 “(1) *IN GENERAL.*—*In accordance with all ap-*
5 *plicable Federal law (including regulations), funds*
6 *made available to carry out this section may be used*
7 *for—*

8 “(A) *participation in the control of invasive*
9 *plant species; and*

10 “(B) *the establishment of native species.*

11 “(2) *INCLUDED ACTIVITIES.*—*The participation*
12 *and establishment under paragraph (1) may in-*
13 *clude—*

14 “(A) *participation in statewide inventories*
15 *of invasive plant species and desirable plant spe-*
16 *cies;*

17 “(B) *regional native plant habitat conserva-*
18 *tion and mitigation;*

19 “(C) *native revegetation;*

20 “(D) *elimination of invasive species to cre-*
21 *ate fuel breaks for the prevention and control of*
22 *wildfires; and*

23 “(E) *training.*

24 “(3) *CONTRIBUTIONS.*—

1 “(A) *IN GENERAL.*—Subject to subpara-
 2 graph (B), an activity described in paragraph
 3 (1) may be carried out concurrently with, in ad-
 4 vance of, or following the construction of a
 5 project funded under this title.

6 “(B) *CONDITION FOR ACTIVITIES CON-*
 7 *DUCTED IN ADVANCE OF PROJECT CONSTRUC-*
 8 *TION.*—An activity described in paragraph (1)
 9 may be carried out in advance of construction of
 10 a project only if the activity is carried out in ac-
 11 cordance with all applicable requirements of
 12 Federal law (including regulations) and State
 13 transportation planning processes.”.

14 (c) *CONFORMING AMENDMENT.*—The analysis for sub-
 15 chapter I of chapter 1 of title 23, United States Code (as
 16 amended by section 1406(b)), is amended by adding at the
 17 end the following:

“165. Eligibility for environmental restoration and pollution abatement.

“166. Control of invasive plant species and establishment of native species.”.

18 **SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.**

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

21 (1) in subsection (a)(1), by striking “the roads
 22 as” and all that follows and inserting “the roads as—

23 “(A) National Scenic Byways;

24 “(B) All-American Roads; or

1 “(C) *America’s Byways.*”;

2 (2) *in subsection (b)—*

3 (A) *in paragraph (1)(A), by striking “des-*
4 *ignated as” and all that follows and inserting*
5 *“designated as—*

6 *“(i) National Scenic Byways;*

7 *“(ii) All-American Roads; or*

8 *“(iii) America’s Byways; and”;*

9 (B) *in paragraph (2)—*

10 (i) *in subparagraph (A), by striking*
11 *“Byway or All-American Road” and insert-*
12 *ing “Byway, All-American Road, or 1 of*
13 *America’s Byways”; and*

14 (ii) *in subparagraph (B), by striking*
15 *“designation as a” and all that follows and*
16 *inserting “designation as—*

17 *“(i) a National Scenic Byway;*

18 *“(ii) an All-American Road; or*

19 *“(iii) 1 of America’s Byways; and”;*

20 *and*

21 (3) *in subsection (c)(4), by striking “passing*
22 *lane,”.*

23 (b) *RESEARCH, TECHNICAL ASSISTANCE, MARKETING,*
24 *AND PROMOTION.—Section 162 of title 23, United States*
25 *Code, is amended—*

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

3 (2) *by inserting after subsection (c) the fol-*
4 *lowing:*

5 “(d) *RESEARCH, TECHNICAL ASSISTANCE, MAR-*
6 *KETING, AND PROMOTION.—*

7 “(1) *IN GENERAL.—The Secretary may carry out*
8 *technical assistance, marketing, market research, and*
9 *promotion with respect to State Scenic Byways, Na-*
10 *tional Scenic Byways, All-American Roads, and*
11 *America’s Byways.*

12 “(2) *COOPERATION, GRANTS, AND CONTRACTS.—*
13 *The Secretary may make grants to, or enter into con-*
14 *tracts, cooperative agreements, and other transactions*
15 *with, any Federal agency, State agency, authority,*
16 *association, institution, for-profit or nonprofit cor-*
17 *poration, organization, or person, to carry out*
18 *projects and activities under this subsection.*

19 “(3) *FUNDS.—The Secretary may use not more*
20 *than \$2,000,000 for each fiscal year of funds made*
21 *available for the National Scenic Byways Program to*
22 *carry out projects and activities under this sub-*
23 *section.*

24 “(4) *PRIORITY.—The Secretary shall give pri-*
25 *ority under this subsection to partnerships that lever-*

1 *age Federal funds for research, technical assistance,*
2 *marketing and promotion.”; and*

3 *(3) in subsection (g) (as redesignated by para-*
4 *graph (1)), by striking “80 percent” and inserting*
5 *“the share applicable under section 120, as adjusted*
6 *under subsection (d) of that section”.*

7 **SEC. 1603. RECREATIONAL TRAILS PROGRAM.**

8 *(a) RECREATIONAL TRAILS PROGRAM FORMULA.—*
9 *Section 104(h)(1) of title 23, United States Code, is amend-*
10 *ed—*

11 *(1) by striking “Whenever” and inserting the fol-*
12 *lowing:*

13 *“(A) IN GENERAL.—In any case in which”;*

14 *(2) by striking “research and technical assist-*
15 *ance under the recreational trails program and for*
16 *the administration of the National Recreational*
17 *Trails Advisory Committee” and inserting “research,*
18 *technical assistance, and training under the rec-*
19 *reational trails program”;* and

20 *(3) by striking “The Secretary” and inserting*
21 *the following:*

22 *“(B) CONTRACTS AND AGREEMENTS.—The*
23 *Secretary”.*

1 (b) *RECREATIONAL TRAILS PROGRAM ADMINISTRATION*.—Section 206 of title 23, United States Code, is
2 *amended*—
3

4 (1) *in subsection (d)*—

5 (A) *by striking paragraph (2) and inserting*
6 *the following:*

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

10 “(A) *maintenance and restoration of rec-*
11 *reational trails;*

12 “(B) *development and rehabilitation of*
13 *trailside and trailhead facilities and trail link-*
14 *ages for recreational trails;*

15 “(C) *purchase and lease of recreational trail*
16 *construction and maintenance equipment;*

17 “(D) *construction of new recreational trails,*
18 *except that, in the case of new recreational trails*
19 *crossing Federal land, construction of the trails*
20 *shall be*—

21 “(i) *permissible under other law;*

22 “(ii) *necessary and recommended by a*
23 *statewide comprehensive outdoor recreation*
24 *plan that is*—

1 “(I) required under the Land and
2 Water Conservation Fund Act of 1965
3 (16 U.S.C. 460l–4 et seq.); and

4 “(II) in effect;

5 “(iii) approved by the administering
6 agency of the State designated under sub-
7 section (c)(1)(A); and

8 “(iv) approved by each Federal agency
9 having jurisdiction over the affected land,
10 under such terms and conditions as the
11 head of the Federal agency determines to be
12 appropriate, except that the approval shall
13 be contingent on compliance by the Federal
14 agency with all applicable laws, includ-
15 ing—

16 “(I) the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et
18 seq.);

19 “(II) the Forest and Rangeland
20 Renewable Resources Planning Act of
21 1974 (16 U.S.C. 1600 et seq.); and

22 “(III) the Federal Land Policy
23 and Management Act of 1976 (43
24 U.S.C. 1701 et seq.);

1 “(E) acquisition of easements and fee sim-
2 ple title to property for recreational trails or rec-
3 reational trail corridors;

4 “(F) assessment of trail conditions for ac-
5 cessibility and maintenance;

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

9 “(H) development and dissemination of
10 publications and operation of educational pro-
11 grams to promote safety and environmental pro-
12 tection, as those objectives relate to the use of rec-
13 reational trails, supporting non-law enforcement
14 trail safety and trail use monitoring patrol pro-
15 grams, and providing trail-related training, but
16 in an amount not to exceed 5 percent of the ap-
17 portionment made to the State for the fiscal
18 year; and

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

24 (B) in paragraph (3)—

1 (i) in subparagraph (D), by striking
2 “(2)(F)” and inserting “(2)(I)”; and

3 (ii) by adding at the end the following:

4 “(E) USE OF YOUTH CONSERVATION OR
5 SERVICE CORPS.—A State shall make available
6 not less than 10 percent of the apportionments of
7 the State to provide grants to, or to enter into
8 cooperative agreements or contracts with, quali-
9 fied youth conservation or service corps to per-
10 form recreational trails program activities.”;

11 (2) in subsection (f)—

12 (A) in paragraph (1)—

13 (i) by inserting “and the Federal share
14 of the administrative costs of a State” after
15 “project”; and

16 (ii) by striking “not exceed 80 percent”
17 and inserting “be determined in accordance
18 with section 120”;

19 (B) in paragraph (2)—

20 (i) in subparagraph (A), by striking
21 “80 percent of” and inserting “the amount
22 determined in accordance with section 120
23 for”; and

1 (ii) in subparagraph (B), by inserting
2 “sponsoring the project” after “Federal
3 agency”;

4 (C) by striking paragraph (5);

5 (D) by redesignating paragraph (4) as
6 paragraph (5);

7 (E) by inserting after paragraph (3) the fol-
8 lowing:

9 “(4) *USE OF RECREATIONAL TRAILS PROGRAM*
10 *FUNDS TO MATCH OTHER FEDERAL PROGRAM*
11 *FUNDS.—Notwithstanding any other provision of law,*
12 *funds made available under this section may be used*
13 *to pay the non-Federal matching share for other Fed-*
14 *eral program funds that are—*

15 “(A) *expended in accordance with the re-*
16 *quirements of the Federal program relating to*
17 *activities funded and populations served; and*

18 “(B) *expended on a project that is eligible*
19 *for assistance under this section.”; and*

20 (F) *in paragraph (5) (as redesignated by*
21 *subparagraph (D)), by striking “80 percent” and*
22 *inserting “the Federal share as determined in ac-*
23 *cordance with section 120”; and*

24 (3) *in subsection (h)—*

1 (A) in paragraph (1), by inserting after
2 subparagraph (B) the following:

3 “(C) *PLANNING AND ENVIRONMENTAL AS-*
4 *SESSMENT COSTS INCURRED PRIOR TO PROJECT*
5 *APPROVAL.—A project funded under any of sub-*
6 *paragraphs (A) through (H) of subsection (d)(2)*
7 *may permit preapproval planning and environ-*
8 *mental compliance costs incurred not more than*
9 *18 months before project approval to be credited*
10 *toward the non-Federal share in accordance with*
11 *subsection (f).”;* and

12 (B) by striking paragraph (2) and inserting
13 the following:

14 “(2) *WAIVER OF HIGHWAY PROGRAM REQUIRE-*
15 *MENTS.—A project funded under this section—*

16 “(A) *is intended to enhance recreational op-*
17 *portunity;*

18 “(B) *is not considered to be a highway*
19 *project; and*

20 “(C) *is not subject to—*

21 “(i) *section 112, 114, 116, 134, 135,*
22 *138, 217, or 301 of this title; or*

23 “(ii) *section 303 of title 49.”.*

1 **SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.**

2 *Subsection 103(c) of title 23, United States Code, is*
3 *amended by adding at the end the following:*

4 “(5) *EXEMPTION OF INTERSTATE SYSTEM.*—

5 “(A) *IN GENERAL.*—*Except as provided in*
6 *subparagraph (B), the Interstate System shall*
7 *not be considered to be a historic site under sec-*
8 *tion 303 of title 49 or section 138 of this title,*
9 *regardless of whether the Interstate System or*
10 *portions of the Interstate System are listed on, or*
11 *eligible for listing on, the National Register of*
12 *Historic Places.*

13 “(B) *INDIVIDUAL ELEMENTS.*—*A portion of*
14 *the Interstate System that possesses an inde-*
15 *pendent feature of historic significance, such as*
16 *a historic bridge or a highly significant engi-*
17 *neering feature, that would qualify independ-*
18 *ently for listing on the National Register of His-*
19 *toric Places, shall be considered to be a historic*
20 *site under section 303 of title 49 or section 138*
21 *of this title, as applicable.”.*

22 **SEC. 1605. STANDARDS.**

23 (a) *IN GENERAL.*—*Section 109(a) of title 23, United*
24 *States Code, is amended—*

25 (1) *in paragraph (1), by striking “and” at the*
26 *end;*

1 (2) *in paragraph (2), by striking the period at*
2 *the end and inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “(3) *consider the preservation, historic, scenic,*
5 *natural environmental, and community values.”.*

6 (b) *CONTEXT SENSITIVE DESIGN.—Section 109 of title*
7 *23, United States Code, is amended by striking subsection*
8 *(p) and inserting the following:*

9 “(p) *CONTEXT SENSITIVE DESIGN.—*

10 “(1) *IN GENERAL.—The Secretary shall encour-*
11 *age States to design projects funded under this title*
12 *that—*

13 “(A) *allow for the preservation of environ-*
14 *mental, scenic, or historic values;*

15 “(B) *ensure the safe use of the facility;*

16 “(C) *provide for consideration of the context*
17 *of the locality;*

18 “(D) *encourage access for other modes of*
19 *transportation; and*

20 “(E) *comply with subsection (a).*

21 “(2) *APPROVAL BY SECRETARY.—Notwith-*
22 *standing subsections (b) and (c), the Secretary may*
23 *approve a project described in paragraph (1) for the*
24 *National Highway System if the project is designed*
25 *to achieve the criteria specified in that paragraph.”.*

1 **SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.**

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

4 *“(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER*
5 *REQUIREMENTS.—*

6 *“(1) DEFINITIONS.—In this subsection:*

7 *“(A) RESPONSIBLE AGENCY.—The term ‘re-*
8 *sponsible agency’ means—*

9 *“(i) a State transportation depart-*
10 *ment; and*

11 *“(ii) a local agency in a State that is*
12 *responsible for transportation matters.*

13 *“(B) SERIOUSLY DEGRADED.—The term ‘se-*
14 *riously degraded’, with respect to a high occu-*
15 *pancy vehicle lane, means, in the case of a high*
16 *occupancy vehicle lane, the minimum average*
17 *operating speed, performance threshold, and as-*
18 *sociated time period of the high occupancy vehi-*
19 *cle lane, calculated and determined jointly by all*
20 *applicable responsible agencies and based on con-*
21 *ditions unique to the roadway, are unsatisfac-*
22 *tory.*

23 *“(2) REQUIREMENTS.—*

24 *“(A) IN GENERAL.—Subject to subpara-*
25 *graph (B), for each State, 1 or more responsible*
26 *agencies shall establish the occupancy require-*

1 *ments of vehicles operating on high occupancy*
2 *vehicle lanes.*

3 “(B) *MINIMUM NUMBER OF OCCUPANTS.—*
4 *Except as provided in paragraph (3), an occu-*
5 *pancy requirement established under subpara-*
6 *graph (A) shall—*

7 “(i) *require at least 2 occupants per*
8 *vehicle for a vehicle operating on a high oc-*
9 *cupancy vehicle lane; and*

10 “(ii) *in the case of a high occupancy*
11 *vehicle lane that traverses an adjacent*
12 *State, be established in consultation with*
13 *the adjacent State.*

14 “(3) *EXCEPTIONS TO HOV OCCUPANCY REQUIRE-*
15 *MENTS.—*

16 “(A) *MOTORCYCLES.—For the purpose of*
17 *this subsection, a motorcycle—*

18 “(i) *shall not be considered to be a sin-*
19 *gle occupant vehicle; and*

20 “(ii) *shall be allowed to use a high oc-*
21 *cupancy vehicle lane unless a responsible*
22 *agency—*

23 “(I) *certifies to the Secretary the*
24 *use of a high occupancy vehicle lane by*

1 *a motorcycle would create a safety haz-*
2 *ard; and*

3 “(II) restricts that the use of the
4 *high occupancy vehicle lane by motor-*
5 *cycles.*

6 “(B) *LOW EMISSION AND ENERGY-EFFI-*
7 *CIENT VEHICLES.—*

8 “(i) *DEFINITION OF LOW EMISSION*
9 *AND ENERGY-EFFICIENT VEHICLE.—In this*
10 *subparagraph, the term ‘low emission and*
11 *energy-efficient vehicle’ means a vehicle that*
12 *has been certified by the Administrator of*
13 *the Environmental Protection Agency—*

14 “(I)(aa) *to have a 45-mile per*
15 *gallon or greater fuel economy highway*
16 *rating; or*

17 “(bb) *to qualify as an alternative*
18 *fueled vehicle under section 301 of the*
19 *Energy Policy Act of 1992 (42 U.S.C.*
20 *13211); and*

21 “(II) *as meeting Tier II emission*
22 *level established in regulations promul-*
23 *gated by the Administrator of the En-*
24 *vironmental Protection Agency under*
25 *section 202(i) of the Clean Air Act (42*

1 U.S.C. 7521(i)) for that make and
2 model year vehicle.

3 “(i) *EXEMPTION FOR LOW EMISSION*
4 *AND ENERGY-EFFICIENT VEHICLES.*—A re-
5 sponsible agency may permit qualifying low
6 emission and energy-efficient vehicles that
7 do not meet applicable occupancy require-
8 ments (as determined by the responsible
9 agency) to use high occupancy vehicle lanes
10 if the responsible agency—

11 “(I) establishes a program that
12 addresses how those qualifying low
13 emission and energy-efficient vehicles
14 are selected and certified;

15 “(II) establishes requirements for
16 labeling qualifying low emission and
17 energy-efficient vehicles (including pro-
18 cedures for enforcing those require-
19 ments);

20 “(III) continuously monitors,
21 evaluates, and reports to the Secretary
22 on performance; and

23 “(IV) imposes such restrictions on
24 the use on high occupancy vehicle lanes
25 by vehicles that do not satisfy estab-

1 lished occupancy requirements as are
2 necessary to ensure that the perform-
3 ance of individual high occupancy ve-
4 hicle lanes, and the entire high occu-
5 pancy vehicle lane system, will not be-
6 come seriously degraded.

7 “(C) TOLLING OF VEHICLES.—

8 “(i) IN GENERAL.—A responsible agen-
9 cy may permit vehicles, in addition to the
10 vehicles described in paragraphs (A), (B),
11 and (D) that do not satisfy established occu-
12 pancy requirements, to use a high occu-
13 pancy vehicle lane only if the responsible
14 agency charges those vehicles a toll.

15 “(ii) APPLICABLE AUTHORITY.—In im-
16 posing a toll under clause (i), a responsible
17 agency shall—

18 “(I) be subject to section 129;

19 “(II) establish a toll program that
20 addresses ways in which motorists may
21 enroll and participate in the program;

22 “(III) develop, manage, and
23 maintain a system that will automati-
24 cally collect the tolls from covered vehi-
25 cles;

1 “(IV) continuously monitor,
2 evaluate, and report on performance of
3 the system;

4 “(V) establish such policies and
5 procedures as are necessary—

6 “(aa) to vary the toll charged
7 in order to manage the demand
8 for use of high occupancy vehicle
9 lanes; and

10 “(bb) to enforce violations;

11 and

12 “(VI) establish procedures to im-
13 pose such restrictions on the use of high
14 occupancy vehicle lanes by vehicles that
15 do not satisfy established occupancy re-
16 quirements as are necessary to ensure
17 that the performance of individual
18 high occupancy vehicle lanes, and the
19 entire high occupancy vehicle lane sys-
20 tem, will not become seriously de-
21 graded.

22 “(D) DESIGNATED PUBLIC TRANSPOR-
23 TATION VEHICLES.—

24 “(i) DEFINITION OF DESIGNATED PUB-
25 LIC TRANSPORTATION VEHICLE.—In this

1 *subparagraph, the term ‘designated public*
2 *transportation vehicle’ means a vehicle*
3 *that—*

4 *“(I) provides designated public*
5 *transportation (as defined in section*
6 *221 of the Americans with Disabilities*
7 *Act of 1990 (42 U.S.C. 12141)); and*

8 *“(II)(aa) is owned or operated by*
9 *a public entity; or*

10 *“(bb) is operated under a contract*
11 *with a public entity.*

12 *“(ii) USE OF HIGH OCCUPANCY VEHI-*
13 *CLE LANES.—A responsible agency may*
14 *permit designated public transportation ve-*
15 *hicles that do not satisfy established occu-*
16 *pancy requirements to use high occupancy*
17 *vehicle lanes if the responsible agency—*

18 *“(I) requires the clear and identi-*
19 *fiable labeling of each designated pub-*
20 *lic transportation vehicle operating*
21 *under a contract with a public entity*
22 *with the name of the public entity on*
23 *all sides of the vehicle;*

24 *“(II) continuously monitors, eval-*
25 *uates, and reports on performance of*

1 *those designated public transportation*
2 *vehicles; and*

3 “(III) *imposes such restrictions on*
4 *the use of high occupancy vehicle lanes*
5 *by designated public transportation ve-*
6 *hicles as are necessary to ensure that*
7 *the performance of individual high oc-*
8 *cupancy vehicle lanes, and the entire*
9 *high occupancy vehicle lane system,*
10 *will not become seriously degraded.*

11 “(E) *HOV LANE MANAGEMENT, OPERATION,*
12 *AND MONITORING.—*

13 “(i) *IN GENERAL.—A responsible agen-*
14 *cy that permits any of the exceptions speci-*
15 *fied in this paragraph shall comply with*
16 *clauses (ii) and (iii).*

17 “(ii) *PERFORMANCE MONITORING,*
18 *EVALUATION, AND REPORTING.—A respon-*
19 *sible agency described in clause (i) shall es-*
20 *tablish, manage, and support a performance*
21 *monitoring, evaluation, and reporting pro-*
22 *gram under which the responsible agency*
23 *continuously monitors, assesses, and reports*
24 *on the effects that any vehicle permitted to*
25 *use a high occupancy vehicle lane under an*

1 exception under this paragraph may have
2 on the operation of—

3 “(I) individual high occupancy
4 vehicle lanes; and

5 “(II) the entire high occupancy
6 vehicle lane system.

7 “(iii) OPERATION OF HOV LANE OR
8 SYSTEM.—A responsible agency described in
9 clause (i) shall limit use of, or cease to use,
10 any of the exceptions specified in this para-
11 graph if the presence of any vehicle per-
12 mitted to use a high occupancy vehicle lane
13 under an exception under this paragraph
14 seriously degrades the operation of—

15 “(I) individual high occupancy
16 vehicle lanes; and

17 “(II) the entire high occupancy
18 vehicle lane system.”.

19 **SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN**
20 **WALKWAYS.**

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

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

1 (2) *in subsection (e), by striking “bicycles” each*
2 *place it appears and inserting “pedestrians or*
3 *bicyclists”;*

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

6 “*(f) FEDERAL SHARE.—The Federal share of the con-*
7 *struction of bicycle transportation facilities and pedestrian*
8 *walkways, and for carrying out nonconstruction projects re-*
9 *lating to safe pedestrian and bicycle use, shall be deter-*
10 *mined in accordance with section 120(b).”;*

11 (4) *by redesignating subsection (j) as subsection*
12 *(k);*

13 (5) *by inserting after subsection (i) the following:*

14 “*(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—*

15 “*(1) IN GENERAL.—The Secretary shall select*
16 *and make grants to a national, nonprofit organiza-*
17 *tion engaged in promoting bicycle and pedestrian*
18 *safety—*

19 “*(A) to operate a national bicycle and pe-*
20 *destrian clearinghouse;*

21 “*(B) to develop information and edu-*
22 *cational programs regarding walking and bicy-*
23 *cling; and*

24 “*(C) to disseminate techniques and strate-*
25 *gies for improving bicycle and pedestrian safety.*

1 “(2) *FUNDING.*—*The Secretary may use funds*
2 *set aside under section 104(n) to carry out this sub-*
3 *section.*

4 “(3) *APPLICABILITY OF TITLE 23.*—*Funds au-*
5 *thorized to be appropriated to carry out this sub-*
6 *section shall be available for obligation in the same*
7 *manner as if the funds were apportioned under sec-*
8 *tion 104, except that the funds shall remain available*
9 *until expended.”; and*

10 (6) *in subsection (k) (as redesignated by para-*
11 *graph (4))—*

12 (A) *by redesignating paragraph (4) as*
13 *paragraph (5); and*

14 (B) *by inserting after paragraph (3) the fol-*
15 *lowing:*

16 “(4) *SHARED USE PATH.*—*The term ‘shared use*
17 *path’ means a multiuse trail or other path that is—*

18 “(A) *physically separated from motorized*
19 *vehicular traffic by an open space or barrier, ei-*
20 *ther within a highway right-of-way or within an*
21 *independent right-of-way; and*

22 “(B) *usable for transportation purposes (in-*
23 *cluding by pedestrians, bicyclists, skaters, eques-*
24 *trians, and other nonmotorized users).”.*

1 **(b) RESERVATION OF FUNDS.**—Section 104 of title 23,
2 *United States Code* (as amended by section 1522), is
3 amended by adding at the end the following:

4 “(n) **BICYCLE AND PEDESTRIAN SAFETY GRANTS.**—
5 *On October 1 of each of fiscal years 2004 through 2009,*
6 *the Secretary, after making the deductions authorized by*
7 *subsections (a) and (f), shall set aside \$500,000 of the re-*
8 *maining funds apportioned under subsection (b)(3) for use*
9 *in carrying out the bicycle and pedestrian safety grant pro-*
10 *gram under section 217.”*

11 **SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE**
12 **RIGHTS-OF-WAY.**

13 Section 111 of title 23, *United States Code*, is amended
14 by adding at the end the following:

15 “(d) **IDLING REDUCTION FACILITIES IN INTERSTATE**
16 **RIGHTS-OF-WAY.**—

17 “(1) **IN GENERAL.**—Notwithstanding subsection
18 (a), a State may—

19 “(A) permit electrification or other idling
20 reduction facilities and equipment, for use by
21 motor vehicles used for commercial purposes, to
22 be placed in rest and recreation areas, and in
23 safety rest areas, constructed or located on
24 rights-of-way of the Interstate System in the

1 State, so long as those idling reduction measures
2 do not—

3 “(i) reduce the existing number of des-
4 ignated truck parking spaces at any given
5 rest or recreation area; or

6 “(ii) preclude the use of those spaces by
7 trucks employing alternative idle reduction
8 technologies; and

9 “(B) charge a fee, or permit the charging of
10 a fee, for the use of those parking spaces actively
11 providing power to a truck to reduce idling.

12 “(2) PURPOSE.—The exclusive purpose of the fa-
13 cilities described in paragraph (1) (or similar tech-
14 nologies) shall be to enable operators of motor vehicles
15 used for commercial purposes—

16 “(A) to reduce idling of a truck while
17 parked in the rest or recreation area; and

18 “(B) to use installed or other equipment
19 specifically designed to reduce idling of a truck,
20 or provide alternative power for supporting driv-
21 er comfort, while parked.”.

22 **SEC. 1609. TOLL PROGRAMS.**

23 (a) *INTERSTATE SYSTEM RECONSTRUCTION AND RE-*
24 *HABILITATION PILOT PROGRAM.*—Section 1216(b) of the

1 *Transportation Equity Act for the 21st Century (23 U.S.C.*
2 *129 note; 112 Stat. 212)*—

3 *(1) is amended—*

4 *(A) in paragraph (1)—*

5 *(i) by striking “The Secretary” and*
6 *inserting “Notwithstanding section 301, the*
7 *Secretary”; and*

8 *(ii) by striking “that could not other-*
9 *wise be adequately maintained or function-*
10 *ally improved without the collection of*
11 *tolls”;*

12 *(B) in paragraph (3), by striking subpara-*
13 *graph (C) and inserting the following:*

14 *“(C) An analysis demonstrating that fi-*
15 *nancing the reconstruction or rehabilitation of*
16 *the facility with the collection of tolls under this*
17 *pilot program is the most efficient, economical,*
18 *or expeditious way to advance the project.”;*

19 *(C) in paragraph (4)—*

20 *(i) by striking subparagraph (A) and*
21 *inserting the following:*

22 *“(A) the State’s analysis showing that fi-*
23 *nancing the reconstruction or rehabilitation of a*
24 *facility with the collection of tolls under the pilot*

1 program is the most efficient, economical, or ex-
2 peditious way to advance the project;”;

3 (ii) by striking subparagraph (B) and
4 inserting the following:

5 “(B) the facility needs reconstruction or re-
6 habilitation, including major work that may re-
7 quire replacing sections of the existing facility on
8 new alignment;”;

9 (iii) by striking subparagraph (C);
10 and

11 (iv) by redesignating subparagraphs
12 (D) and (E) as subparagraphs (C) and (D),
13 respectively;

14 (2) is redesignated as subsection (d) of section
15 129 of title 23, United States Code, and moved to ap-
16 pear at the end of that section; and

17 (3) by striking “of title 23, United States Code”
18 each place it appears.

19 (b) *FAST AND SENSIBLE TOLL (FAST) LANES PRO-*
20 *GRAM.*—Section 129 of title 23, United States Code (as
21 amended by subsection (a)(2)), is amended by adding at
22 the end the following:

23 “(e) *FAST AND SENSIBLE TOLL (FAST) LANES PRO-*
24 *GRAM.*—

25 “(1) *DEFINITIONS.*—In this subsection:

1 “(A) *ELIGIBLE TOLL FACILITY*.—The term
2 ‘eligible toll facility’ includes—

3 “(i) a facility in existence on the date
4 of enactment of this subsection that collects
5 tolls;

6 “(ii) a facility in existence on the date
7 of enactment of this subsection, including a
8 facility that serves high occupancy vehicles;

9 “(iii) a facility modified or constructed
10 after the date of enactment of this subsection
11 to create additional tolled capacity (includ-
12 ing a facility constructed by a private enti-
13 ty or using private funds); and

14 “(iv) in the case of a new lane added
15 to a previously non-tolled facility, only the
16 new lane.

17 “(B) *NONATTAINMENT AREA*.—The term
18 ‘nonattainment area’ has the meaning given the
19 term in section 171 of the Clean Air Act (42
20 U.S.C. 7501).

21 “(2) *ESTABLISHMENT*.—Notwithstanding sec-
22 tions 129 and 301, the Secretary shall permit a State,
23 public authority, or a public or private entity des-
24 ignated by a State, to collect a toll from motor vehi-
25 cles at an eligible toll facility for any highway,

1 *bridge, or tunnel, including facilities on the Interstate*
2 *System—*

3 *“(A) to manage high levels of congestion;*

4 *“(B) to reduce emissions in a nonattain-*
5 *ment area or maintenance area; or*

6 *“(C) to finance the expansion of a highway,*
7 *for the purpose of reducing traffic congestion, by*
8 *constructing 1 or more additional lanes (includ-*
9 *ing bridge, tunnel, support, and other structures*
10 *necessary for that construction) on the Interstate*
11 *System.*

12 *“(3) LIMITATION ON USE OF REVENUES.—*

13 *“(A) USE.—*

14 *“(i) IN GENERAL.—Toll revenues re-*
15 *ceived under paragraph (2) shall be used by*
16 *a State, public authority, or private entity*
17 *designated by a State, for—*

18 *“(I) debt service for debt incurred*
19 *on 1 or more highway or transit*
20 *projects carried out under this title or*
21 *title 49;*

22 *“(II) a reasonable return on in-*
23 *vestment of any private financing;*

24 *“(III) the costs necessary for*
25 *proper operation and maintenance of*

1 *any facilities under paragraph (2) (in-*
2 *cluding reconstruction, resurfacing,*
3 *restoration, and rehabilitation); or*

4 *“(IV) if the State, public author-*
5 *ity, or private entity annually certifies*
6 *that the tolled facility is being ade-*
7 *quately operated and maintained, any*
8 *other purpose relating to a highway or*
9 *transit project carried out under this*
10 *title or title 49.*

11 *“(B) REQUIREMENTS.—*

12 *“(i) VARIABLE PRICE REQUIREMENT.—*
13 *A facility that charges tolls under this sub-*
14 *section may establish a toll that varies in*
15 *price according to time of day or level of*
16 *traffic, as appropriate to manage congestion*
17 *or improve air quality.*

18 *“(ii) HOV VARIABLE PRICING RE-*
19 *QUIREMENT.—The Secretary shall require,*
20 *for each high occupancy vehicle facility that*
21 *charges tolls under this subsection, that the*
22 *tolls vary in price according to time of day*
23 *or level of traffic, as appropriate to manage*
24 *congestion or improve air quality.*

1 “(iii) *HOV PASSENGER REQUIRE-*
2 *MENTS.—In addition to the exceptions to*
3 *the high occupancy vehicle passenger re-*
4 *quirements established under section*
5 *102(a)(2), a State may permit motor vehi-*
6 *cles with fewer than 2 occupants to operate*
7 *in high occupancy vehicle lanes as part of*
8 *a variable toll pricing program established*
9 *under this subsection.*

10 “(C) *AGREEMENT.—*

11 “(i) *IN GENERAL.—Before the Sec-*
12 *retary may permit a facility to charge tolls*
13 *under this subsection, the Secretary and the*
14 *applicable State, public authority, or pri-*
15 *vate entity designated by a State shall enter*
16 *into an agreement for each facility incor-*
17 *porating the conditions described in sub-*
18 *paragraphs (A) and (B).*

19 “(ii) *TERMINATION.—An agreement*
20 *under clause (i) shall terminate with respect*
21 *to a facility upon the decision of the State,*
22 *public authority, or private entity des-*
23 *ignated by a State to discontinue the vari-*
24 *able tolling program under this subsection*
25 *for the facility.*

1 “(iii) *DEBT.*—

2 “(I) *IN GENERAL.*—*If there is any*
3 *debt outstanding on a facility at the*
4 *time at which the decision is made to*
5 *discontinue the program under this*
6 *subsection with respect to the facility,*
7 *the facility may continue to charge*
8 *tolls in accordance with the terms of*
9 *the agreement until such time as the*
10 *debt is retired.*

11 “(II) *NOTICE.*—*On retirement of*
12 *the debt of a tolled facility, the appli-*
13 *cable State, public authority, or pri-*
14 *vate entity designated by a State shall*
15 *provide notice to the public of that re-*
16 *tirement.*

17 “(D) *LIMITATION ON FEDERAL SHARE.*—
18 *The Federal share of the cost of a project on a*
19 *facility tolled under this subsection, including a*
20 *project to install the toll collection facility shall*
21 *be a percentage, not to exceed 80 percent, deter-*
22 *mined by the applicable State.*

23 “(4) *ELIGIBILITY.*—*To be eligible to participate*
24 *in the program under this subsection, a State, public*

1 *authority, or private entity designated by a State*
2 *shall provide to the Secretary—*

3 *“(A) a description of the congestion or air*
4 *quality problems sought to be addressed under*
5 *the program;*

6 *“(B) a description of—*

7 *“(i) the goals sought to be achieved*
8 *under the program; and*

9 *“(ii) the performance measures that*
10 *would be used to gauge the success made to-*
11 *ward reaching those goals; and*

12 *“(C) such other information as the Sec-*
13 *retary may require.*

14 *“(5) AUTOMATION.—Fees collected from motorists*
15 *using a FAST lane shall be collected only through the*
16 *use of noncash electronic technology that optimizes the*
17 *free flow of traffic on the tolled facility.*

18 *“(6) INTEROPERABILITY.—*

19 *“(A) RULE.—*

20 *“(i) IN GENERAL.—Not later than 180*
21 *days after the date of enactment of this*
22 *paragraph, the Secretary shall promulgate*
23 *a final rule specifying requirements, stand-*
24 *ards, or performance specifications for auto-*

1 *mated toll collection systems implemented*
2 *under this section.*

3 “(ii) *DEVELOPMENT.—In developing*
4 *that rule, which shall be designed to maxi-*
5 *mize the interoperability of electronic collec-*
6 *tion systems, the Secretary shall, to the*
7 *maximum extent practicable—*

8 *“(I) seek to accelerate progress to-*
9 *ward the national goal of achieving a*
10 *nationwide interoperable electronic toll*
11 *collection system;*

12 *“(II) take into account the use of*
13 *noncash electronic technology currently*
14 *deployed within an appropriate geo-*
15 *graphical area of travel and the*
16 *noncash electronic technology likely to*
17 *be in use within the next 5 years; and*

18 *“(III) seek to minimize additional*
19 *costs and maximize convenience to*
20 *users of toll facility and to the toll fa-*
21 *cility owner or operator.*

22 *“(B) FUTURE MODIFICATIONS.—As the state*
23 *of technology progresses, the Secretary shall mod-*
24 *ify the rule promulgated under subparagraph*
25 *(A), as appropriate.*

1 “(7) *REPORTING.*—

2 “(A) *IN GENERAL.*—*The Secretary, in co-*
3 *operation with State and local agencies and*
4 *other program participants and with oppor-*
5 *tunity for public comment, shall—*

6 “(i) *develop and publish performance*
7 *goals for each FAST lane project;*

8 “(ii) *establish a program for regular*
9 *monitoring and reporting on the achieve-*
10 *ment of performance goals, including—*

11 “(I) *effects on travel, traffic, and*
12 *air quality;*

13 “(II) *distribution of benefits and*
14 *burdens;*

15 “(III) *use of alternative transpor-*
16 *tation modes; and*

17 “(IV) *use of revenues to meet*
18 *transportation or impact mitigation*
19 *needs.*

20 “(B) *REPORTS TO CONGRESS.*—*The Sec-*
21 *retary shall submit to the Committee on Envi-*
22 *ronment and Public Works of the Senate and the*
23 *Committee on Transportation and Infrastructure*
24 *of the House of Representatives—*

1 “(i) not later than 1 year after the
2 date of enactment of this subsection, and
3 annually thereafter, a report that describes
4 in detail the uses of funds under this sub-
5 section in accordance with paragraph
6 (8)(D); and

7 “(ii) not later than 3 years after the
8 date of enactment of this subsection, and
9 every 3 years thereafter, a report that de-
10 scribes any success of the program under
11 this subsection in meeting congestion reduc-
12 tion and other performance goals established
13 for FAST lane programs.

14 “(8) FUNDING.—

15 “(A) AUTHORIZATION OF APPROPRIA-
16 TIONS.—There is authorized to be appropriated
17 from the Highway Trust Fund (other than the
18 Mass Transit Account) to carry out pre-imple-
19 mentation studies and post-implementation eval-
20 uations of projects planned or implemented
21 under this subsection \$11,000,000 for each of fis-
22 cal years 2004 through 2009.

23 “(B) AVAILABILITY.—Funds allocated by
24 the Secretary to a State under this subsection
25 shall remain available for obligation by the State

1 *for a period of 3 years after the last day of the*
2 *fiscal year for which the funds were authorized.*

3 “(C) *CONTRACT AUTHORITY.—Funds au-*
4 *thorized to be appropriated under this para-*
5 *graph shall be available for obligation in the*
6 *same manner as if the funds were apportioned*
7 *under this chapter, except that the Federal share*
8 *of the cost of any project carried out under this*
9 *subsection and the availability of funds author-*
10 *ized by this paragraph shall be determined in*
11 *accordance with this subsection.*

12 “(D) *PROGRAM PROMOTION.—Notwith-*
13 *standing any other provision of this section, the*
14 *Secretary shall use an amount not to exceed 2*
15 *percent of the funds made available under sub-*
16 *paragraph (A)—*

17 “(i) *to make grants to promote the*
18 *purposes of the program under this sub-*
19 *section;*

20 “(ii) *to provide technical support to*
21 *State and local governments or other public*
22 *or private entities involved in implementing*
23 *or considering FAST lane programs; and*

1 “(iii) to conduct research on variable
2 pricing that will support State or local ef-
3 forts to initiate those pricing requirements.

4 “(E) *EFFECT ON OTHER APPORTIONMENTS*
5 *AND ALLOCATIONS.*—Revenues collected from tolls
6 established under this subsection shall not be
7 taken into account in determining the appor-
8 tionments and allocations that any State or trans-
9 portation district within a State shall be entitled
10 to receive under or in accordance with this chap-
11 ter.

12 “(9) *COMPLIANCE.*—The Secretary shall ensure
13 that any project or activity carried out under this
14 section complies with requirements under section 106
15 of this title and section 307 of title 49.

16 “(10) *VOLUNTARY USE.*—Nothing in this sub-
17 section requires any highway user to use a *FAST*
18 lane.

19 “(11) *ENVIRONMENTAL REQUIREMENTS.*—Noth-
20 ing in this subsection affects any environmental re-
21 quirement applicable to the construction or operation
22 of an eligible toll facility under this title or any other
23 provision of law.”.

24 (c) *CONFORMING AMENDMENTS.*—

1 (1) *IN GENERAL.*—Section 1012 of the Inter-
2 modal Surface Transportation Efficiency Act (23
3 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is
4 amended by striking subsection (b).

5 (2) *CONTINUATION OF PROGRAM.*—Notwith-
6 standing the amendment made by paragraph (1), the
7 Secretary shall monitor and allow any value pricing
8 program established under a cooperative agreement in
9 effect on the day before the date of enactment of this
10 Act to continue.

11 **SEC. 1610. FEDERAL REFERENCE METHOD.**

12 (a) *IN GENERAL.*—Section 6102 of the Transportation
13 Equity Act for the 21st Century (42 U.S.C. 7407 note; 112
14 Stat. 464) is amended by striking subsection (e) and insert-
15 ing the following:

16 “(e) *FIELD STUDY.*—Not later than 2 years after the
17 date of enactment of the Safe, Accountable, Flexible, and
18 Efficient Transportation Equity Act of 2004, the Adminis-
19 trator shall—

20 “(1) conduct a field study of the ability of the
21 PM_{2.5} Federal Reference Method to differentiate those
22 particles that are larger than 2.5 micrometers in di-
23 ameter;

24 “(2) develop a Federal reference method to meas-
25 ure directly particles that are larger than 2.5 mi-

1 *rometers in diameter without reliance on subtracting*
2 *from coarse particle measurements those particles that*
3 *are equal to or smaller than 2.5 micrometers in di-*
4 *ameter;*

5 *“(3) develop a method of measuring the composi-*
6 *tion of coarse particles; and*

7 *“(4) submit a report on the study and respon-*
8 *sibilities of the Administrator under paragraphs (1)*
9 *through (3) to—*

10 *“(A) the Committee on Commerce of the*
11 *House of Representatives; and*

12 *“(B) the Committee on Environment and*
13 *Public Works of the Senate.”.*

14 **SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO**
15 **CMAQ.**

16 *Section 104(b)(2) of title 23, United States Code, is*
17 *amended—*

18 *(1) in subparagraph (B)—*

19 *(A) in the matter preceding clause (i), by*
20 *striking “ozone or carbon monoxide” and insert-*
21 *ing “ozone, carbon monoxide, or fine particulate*
22 *matter (PM_{2.5})”;*

23 *(B) by striking clause (i) and inserting the*
24 *following:*

1 “(i) 1.0, if at the time of apporportion-
2 ment, the area is a maintenance area;”;

3 (C) in clause (vi), by striking “or” after the
4 semicolon; and

5 (D) in clause (vii)—

6 (i) by striking “area as described in
7 section 149(b) for ozone,” and inserting
8 “area for ozone (as described in section
9 149(b) or for PM-2.5”; and

10 (ii) by striking the period at the end
11 and inserting a semicolon;

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

13 “(viii) 1.0 if, at the time of apporportion-
14 ment, any county that is not designated as
15 a nonattainment or maintenance area
16 under the 1-hour ozone standard is des-
17 ignated as nonattainment under the 8-hour
18 ozone standard; or

19 “(ix) 1.2 if, at the time of apporportion-
20 ment, the area is not a nonattainment or
21 maintenance area as described in section
22 149(b) for ozone or carbon monoxide, but is
23 an area designated nonattainment under
24 the PM-2.5 standard.”;

1 (3) by striking subparagraph (C) and inserting
2 the following:

3 “(C) *ADDITIONAL ADJUSTMENT FOR CAR-*
4 *BON MONOXIDE AREAS.—If, in addition to being*
5 *designated as a nonattainment or maintenance*
6 *area for ozone as described in section 149(b), any*
7 *county within the area was also classified under*
8 *subpart 3 of part D of title I of the Clean Air*
9 *Act (42 U.S.C. 7512 et seq.) as a nonattainment*
10 *or maintenance area described in section 149(b)*
11 *for carbon monoxide, the weighted nonattain-*
12 *ment or maintenance area population of the*
13 *county, as determined under clauses (i) through*
14 *(vi) or clause (viii) of subparagraph (B), shall be*
15 *further multiplied by a factor of 1.2.”;*

16 (4) by redesignating subparagraph (D) and (E)
17 as subparagraphs (E) and (F) respectively; and

18 (5) by inserting after subparagraph (C) the fol-
19 lowing:

20 “(D) *ADDITIONAL ADJUSTMENT FOR PM 2.5*
21 *AREAS.—If, in addition to being designated as a*
22 *nonattainment or maintenance area for ozone or*
23 *carbon monoxide, or both as described in section*
24 *149(b), any county within the area was also des-*
25 *ignated under the PM–2.5 standard as a non-*

1 *attainment or maintenance area, the weighted*
2 *nonattainment or maintenance area population*
3 *of those counties shall be further multiplied by a*
4 *factor of 1.2.”.*

5 **SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.**

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

8 *(1) in paragraph (4), by striking “or” at the*
9 *end;*

10 *(2) in paragraph (5), by striking the period at*
11 *the end and inserting a semicolon; and*

12 *(3) by adding at the end the following:*

13 *“(6) if the project or program is for the purchase*
14 *of alternative fuel (as defined in section 301 of the*
15 *Energy Policy Act of 1992 (42 U.S.C. 13211)) or bio-*
16 *diesel; or*

17 *“(7) if the project or program involves the pur-*
18 *chase of integrated, interoperable emergency commu-*
19 *nications equipment.”.*

20 *(b) STATES RECEIVING MINIMUM APPORTIONMENT.—*
21 *Section 149(c) of title 23, United States Code, is amended—*

22 *(1) in paragraph (1), by striking “for any*
23 *project eligible under the surface transportation pro-*
24 *gram under section 133.” and inserting the following:*

25 *“for any project in the State that—*

1 “(A) would otherwise be eligible under this
2 section as if the project were carried out in a
3 nonattainment or maintenance area; or

4 “(B) is eligible under the surface transpor-
5 tation program under section 133.”; and

6 (2) in paragraph (2), by striking “for any
7 project in the State eligible under section 133.” and
8 inserting the following: “for any project in the State
9 that—

10 “(A) would otherwise be eligible under this
11 section as if the project were carried out in a
12 nonattainment or maintenance area; or

13 “(B) is eligible under the surface transpor-
14 tation program under section 133.”.

15 (c) *RESPONSIBILITY OF STATES.*—

16 (1) *IN GENERAL.*—Each State shall be respon-
17 sible for ensuring that subrecipients of Federal funds
18 within the State under section 149 of title 23, United
19 States Code, have emission reduction strategies for
20 fleets that are—

21 (A) used in construction projects located in
22 nonattainment and maintenance areas; and

23 (B) funded under title 23, United States
24 Code.

1 (2) *EMISSION REDUCTION STRATEGIES.*—*The*
2 *Administrator of the Environmental Protection Agen-*
3 *cy, in consultation with the Secretary, shall develop*
4 *a nonbinding list of emission reduction strategies and*
5 *supporting technical information for each strategy,*
6 *including—*

7 (A) *contract preferences;*

8 (B) *requirements for the use of anti-idling*
9 *equipment;*

10 (C) *diesel retrofits; and*

11 (D) *such other matters as the Administrator*
12 *of the Environmental Protection Agency, in con-*
13 *sultation with the Secretary, determine to be ap-*
14 *propriate.*

15 (3) *USE OF CMAQ FUNDS.*—*A State may use*
16 *funds made available under this title and title 23,*
17 *United States Code, for the congestion mitigation and*
18 *air quality program under section 149 of title 23,*
19 *United States Code, to ensure the deployment of the*
20 *emission reduction strategies described in paragraph*
21 *(1).*

22 **SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.**

23 *Section 149 of title 23, United States Code, is amended*
24 *by adding at the end the following:*

1 *a cumulative database describing the impacts of the*
2 *projects.*

3 “(3) *CONSIDERATION.*—*The Secretary, in con-*
4 *sultation with the Administrator of the Environ-*
5 *mental Protection Agency, shall consider the rec-*
6 *ommendations and findings of the report submitted to*
7 *Congress under section 1110(e) of the Transportation*
8 *Equity Act for the 21st Century (112 Stat. 144), in-*
9 *cluding recommendations and findings that would*
10 *improve the operation and evaluation of the conges-*
11 *tion mitigation and air quality improvement pro-*
12 *gram under section 149.”*

13 **SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY**
14 **TIMELINES, REQUIREMENTS, AND HORIZON.**

15 (a) *METROPOLITAN PLANNING.*—

16 (1) *DEVELOPMENT OF LONG-RANGE TRANSPOR-*
17 *TATION PLAN.*—*Section 134(g)(1) of title 23, United*
18 *States Code, is amended by striking “periodically, ac-*
19 *cording to a schedule that the Secretary determines to*
20 *be appropriate,” and inserting “every 4 years (or*
21 *more frequently, in a case in which the metropolitan*
22 *planning organization elects to update a transpor-*
23 *tation plan more frequently) in areas designated as*
24 *nonattainment, as defined in section 107(d) of the*
25 *Clean Air Act (42 U.S.C. 7407(d)), and in areas that*

1 *were nonattainment that have been redesignated to*
2 *attainment in accordance with section 107(d)(3) of*
3 *that Act (42 U.S.C. 7407(d)(3)), with a maintenance*
4 *plan under section 175A of that Act (42 U.S.C.*
5 *7505a), or every 5 years (or more frequently, in a*
6 *case in which the metropolitan planning organization*
7 *elects to update a transportation plan more fre-*
8 *quently) in areas designated as attainment (as de-*
9 *fined in section 107(d) of that Act (42 U.S.C.*
10 *7407(d))),”.*

11 (2) *METROPOLITAN TRANSPORTATION IMPROVE-*
12 *MENT PROGRAM.—Section 134(h) of title 23, United*
13 *States Code, is amended—*

14 (A) *in paragraph (1)(D), by striking “2*
15 *years” and inserting “4 years”; and*

16 (B) *in paragraph (2)(A), by striking “3-*
17 *year” and inserting “4-year”.*

18 (3) *STATEWIDE TRANSPORTATION IMPROVEMENT*
19 *PROGRAM.—Section 135(f)(1)(A) of title 23, United*
20 *States Code, is amended by inserting after “program”*
21 *the following: “(which program shall cover a period*
22 *of 4 years and be updated every 4 years)”.*

23 (4) *FINAL REGULATIONS.—Not later than 18*
24 *months after the date of enactment of the Safe, Ac-*
25 *countable, Flexible, and Efficient Transportation Eq-*

1 *uity Act of 2004, the Secretary shall promulgate regu-*
2 *lations that are consistent with the amendments made*
3 *by this subsection.*

4 *(b) SYNCHRONIZED CONFORMITY DETERMINATION.—*
5 *Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))*
6 *is amended—*

7 *(1) in paragraph (2)—*

8 *(A) by striking “(2) Any transportation*
9 *plan” and inserting the following:*

10 *“(2) TRANSPORTATION PLANS AND PROGRAMS.—*
11 *Any transportation plan”;*

12 *(B) in subparagraph (C)(iii), by striking*
13 *the period at the end and inserting a semicolon;*

14 *(C) in subparagraph (D)—*

15 *(i) by striking “Any project” and in-*
16 *serting “any transportation project”; and*

17 *(ii) by striking the period at the end*
18 *and inserting “; and”; and*

19 *(D) by adding at the end the following:*

20 *“(E) the appropriate metropolitan planning*
21 *organization shall redetermine conformity of ex-*
22 *isting transportation plans and programs not*
23 *later than 2 years after the date on which the*
24 *Administrator—*

1 “(i) finds a motor vehicle emissions
2 budget to be adequate in accordance with
3 section 93.118(e)(4) of title 40, Code of Fed-
4 eral Regulations (as in effect on October 1,
5 2003);

6 “(ii) approves an implementation plan
7 that establishes a motor vehicle emissions
8 budget, if that budget has not yet been used
9 in a conformity determination prior to ap-
10 proval; or

11 “(iii) promulgates an implementation
12 plan that establishes or revises a motor ve-
13 hicle emissions budget.”;

14 (2) in paragraph (4)(B)(ii), by striking “but in
15 no case shall such determinations for transportation
16 plans and programs be less frequent than every 3
17 years; and” and inserting “but the frequency for mak-
18 ing conformity determinations on updated transpor-
19 tation plans and programs shall be every 4 years, ex-
20 cept in a case in which—

21 “(I) the metropolitan planning
22 organization elects to update a trans-
23 portation plan or program more fre-
24 quently; or

1 “(II) the metropolitan planning
2 organization is required to determine
3 conformity in accordance with para-
4 graph (2)(E); and”;

5 (3) in paragraph (4)(B)—

6 (A) in clause (ii), by striking “and” at the
7 end;

8 (B) in clause (iii), by striking the period at
9 the end and inserting “; and”; and

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

11 “(iv) address the effects of the most re-
12 cent population, economic, employment,
13 travel, transit ridership, congestion, and in-
14 duced travel demand information in the de-
15 velopment and application of the latest
16 travel and emissions models.”;

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

18 “(7) CONFORMITY HORIZON FOR TRANSPOR-
19 TATION PLANS.—

20 “(A) IN GENERAL.—For the purposes of this
21 section, a transportation plan in a nonattain-
22 ment or maintenance area shall be considered to
23 be a transportation plan or a portion of a trans-
24 portation plan that extends for the longest of the
25 following periods:

1 “(i) *The first 10-year period of any*
2 *such transportation plan.*

3 “(ii) *The latest year in the implemen-*
4 *tation plan applicable to the area that con-*
5 *tains a motor vehicle emission budget.*

6 “(iii) *The year after the completion*
7 *date of a regionally significant project, if*
8 *the project requires approval before the sub-*
9 *sequent conformity determination.*

10 “(B) *EXCEPTION.—In a case in which an*
11 *area has a revision to an implementation plan*
12 *under section 175A(b) and the Administrator*
13 *has found the motor vehicle emissions budgets*
14 *from that revision to be adequate in accordance*
15 *with section 93.118(e)(4) of title 40, Code of Fed-*
16 *eral Regulations (as in effect on October 1,*
17 *2003), or has approved the revision, the trans-*
18 *portation plan shall be considered to be a trans-*
19 *portation plan or portion of a transportation*
20 *plan that extends through the last year of the im-*
21 *plementation plan required under section*
22 *175A(b).*

23 “(8) *DEFINITIONS.—In this subsection:*

24 “(A) *REGIONALLY SIGNIFICANT PROJECT.—*

1 “(i) *IN GENERAL.*—*The term ‘regionally significant project’ means a transportation project that is on a facility that serves a regional transportation need, including—*

2 “(I) *access to and from the area*
3 *outside of the region;*

4 “(II) *access to and from major*
5 *planned developments, including new*
6 *retail malls, sports complexes, or trans-*
7 *portation terminals; and*

8 “(III) *most transportation termi-*
9 *nals.*

10 “(ii) *PRINCIPAL ARTERIALS AND FIXED*
11 *GUIDEWAYS.*—*The term ‘regionally significant project’ includes, at a minimum—*

12 “(I) *all principal arterial high-*
13 *ways; and*

14 “(II) *all fixed guideway transit*
15 *facilities that offer an alternative to re-*
16 *gional highway travel.*

17 “(iii) *ADDITIONAL PROJECTS.*—*The*
18 *interagency consultation process and proce-*
19 *dures described in section 93.105(c) of title*
20 *40, Code of Federal Regulations (as in effect*
21 *as of the date of enactment of this Act).*

1 on October 1, 2003), shall be used to make
2 determinations as to whether minor arterial
3 highways and other transportation projects
4 should be considered ‘regionally significant
5 projects’.

6 “(iv) *EXCLUSIONS*.—The term ‘region-
7 ally significant project’ does not include
8 any project of a type listed in sections
9 93.126 or 127 of title 40, Code of Federal
10 Regulations (as in effect on October 1,
11 2003).

12 “(B) *SIGNIFICANT REVISION*.—The term
13 ‘significant revision’ means—

14 “(i) with respect to a regionally sig-
15 nificant project, a significant change in de-
16 sign concept or scope to the project; and

17 “(ii) with respect to any other kind of
18 project, a change that converts a project
19 that is not a regionally significant project
20 into a regionally significant project.

21 “(C) *TRANSPORTATION PROJECT*.—The term
22 ‘transportation project’ includes only a project
23 that is—

24 “(i) a regionally significant project; or

1 “(ii) a project that makes a significant
2 revision to an existing project.”; and
3 (5) in the matter following paragraph (3)(B), by
4 inserting “transportation” before “project” each place
5 it appears.

6 **SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.**

7 Section 176(c) of the Clean Air Act (42 U.S.C.
8 7506(c)) is amended by striking paragraph (3) and insert-
9 ing the following:

10 “(3) *METHODS OF CONFORMITY DETERMINATION*
11 *BEFORE BUDGET IS AVAILABLE.*—

12 “(A) *IN GENERAL.*—Until such time as a
13 motor vehicle emission budget from an imple-
14 mentation plan submitted for a national ambi-
15 ent air quality standard is determined to be ade-
16 quate in accordance with section 93.118(e)(4) of
17 title 40, Code of Federal Regulations (as in effect
18 on October 1, 2003), or the submitted implemen-
19 tation plan is approved, conformity of such a
20 plan, program, or project shall be demonstrated,
21 in accordance with clauses (i) and (ii) and as se-
22 lected through the consultation process required
23 under paragraph (4)(D)(i), with—

24 “(i) a motor vehicle emission budget
25 that has been found adequate in accordance

1 with section 93.118(e)(4) of title 40, Code of
2 Federal Regulations (as in effect on October
3 1, 2003), or that has been approved, from
4 an implementation plan for the most recent
5 prior applicable national ambient air qual-
6 ity standard addressing the same pollutant;
7 or

8 “(ii) other such tests as the Adminis-
9 trator shall determine to ensure that—

10 “(I) the transportation plan or
11 program—

12 “(aa) is consistent with the
13 most recent estimates of mobile
14 source emissions;

15 “(bb) provides for the expedi-
16 tious implementation of transpor-
17 tation control measures in the ap-
18 plicable implementation plan;
19 and

20 “(cc) with respect to an ozone
21 or carbon monoxide nonattain-
22 ment area, contributes to annual
23 emissions reductions consistent
24 with sections 182(b)(1) and
25 187(a)(7); and

1 “(II) the transportation project—

2 “(aa) comes from a con-
3 forming transportation plan and
4 program described in this sub-
5 paragraph; and

6 “(bb) in a carbon monoxide
7 nonattainment area, eliminates or
8 reduces the severity and number
9 of violations of the carbon mon-
10 oxide standards in the area sub-
11 stantially affected by the project.

12 “(B) DETERMINATION FOR A TRANSPOR-
13 TATION PROJECT IN A CARBON MONOXIDE NON-
14 ATTAINMENT AREA.—A determination under sub-
15 paragraph (A)(i)(II)(bb) may be made as part
16 of either the conformity determination for the
17 transportation program or for the individual
18 project taken as a whole during the environ-
19 mental review phase of project development.”.

20 **SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVE-**
21 **MENTS.**

22 Section 176(c) of the Clean Air Act (42 U.S.C.
23 7506(c)) (as amended by section 1615(b)(4)) is amended—

24 (1) by redesignating paragraph (8) as para-
25 graph (9); and

1 (2) by inserting after paragraph (7) the fol-
2 *lowing:*

3 “(8) *SUBSTITUTION FOR TRANSPORTATION CON-*
4 *TROL MEASURES.—*

5 “(A) *IN GENERAL.—*Transportation control
6 *measures that are specified in an implementa-*
7 *tion plan may be replaced or added to the imple-*
8 *mentation plan with alternate or additional*
9 *transportation control measures if—*

10 “(i) *the substitute measures achieve*
11 *equivalent or greater emissions reductions*
12 *than the control measure to be replaced, as*
13 *demonstrated with an analysis that is con-*
14 *sistent with the current methodology used*
15 *for evaluating the replaced control measure*
16 *in the implementation plan;*

17 “(ii) *the substitute control measures*
18 *are implemented—*

19 “(I) *in accordance with a schedule*
20 *that is consistent with the schedule*
21 *provided for control measures in the*
22 *implementation plan; or*

23 “(II) *if the implementation plan*
24 *date for implementation of the control*
25 *measure to be replaced has passed, as*

1 soon as practicable after the implemen-
2 tation plan date but not later than the
3 date on which emission reductions are
4 necessary to achieve the purpose of the
5 implementation plan;

6 “(iii) the substitute and additional
7 control measures are accompanied with evi-
8 dence of adequate personnel, funding, and
9 authority under State or local law to imple-
10 ment, monitor, and enforce the control
11 measures;

12 “(iv) the substitute and additional con-
13 trol measures were developed through a col-
14 laborative process that included—

15 “(I) participation by representa-
16 tives of all affected jurisdictions (in-
17 cluding local air pollution control
18 agencies, the State air pollution control
19 agency, and State and local transpor-
20 tation agencies);

21 “(II) consultation with the Ad-
22 ministrators; and

23 “(III) reasonable public notice
24 and opportunity for comment; and

1 “(v) the metropolitan planning organi-
2 zation, State air pollution control agency,
3 and the Administrator concur with the
4 equivalency of the substitute or additional
5 control measures.

6 “(B) *ADOPTION*.—After carrying out sub-
7 paragraph (A), a State shall adopt the substitute
8 or additional transportation control measure in
9 the applicable implementation plan.

10 “(C) *NO REQUIREMENT FOR EXPRESS PER-*
11 *MISSION*.—The substitution or addition of a
12 transportation control measure in accordance
13 with this paragraph shall not be contingent on
14 there being any provision in the implementation
15 plan that expressly permits such a substitution
16 or addition.

17 “(D) *NO REQUIREMENT FOR NEW CON-*
18 *FORMITY DETERMINATION*.—The substitution or
19 addition of a transportation control measure in
20 accordance with this paragraph shall not re-
21 quire—

22 “(i) a new conformity determination
23 for the transportation plan; or

24 “(ii) a revision of the implementation
25 plan.

1 “(E) *CONTINUATION OF CONTROL MEASURE*
 2 *BEING REPLACED.*—A control measure that is
 3 being replaced by a substitute control measure
 4 under this paragraph shall remain in effect until
 5 the substitute control measure is adopted by the
 6 State pursuant to subparagraph (B).

7 “(F) *EFFECT OF ADOPTION.*—Adoption of a
 8 substitute control measure shall constitute rescis-
 9 sion of the previously applicable control meas-
 10 ure.”.

11 **SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED**
 12 **BY EXCEPTIONAL EVENTS.**

13 (a) *IN GENERAL.*—Section 319 of the Clean Air Act
 14 (42 U.S.C. 7619) is amended—

15 (1) by striking the section heading and all that
 16 follows through “after notice and opportunity for pub-
 17 lic hearing” and inserting the following:

18 **“SEC. 319. AIR QUALITY MONITORING.**

19 “(a) *IN GENERAL.*—After notice and opportunity for
 20 public hearing”; and

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

22 “(b) *AIR QUALITY MONITORING DATA INFLUENCED BY*
 23 *EXCEPTIONAL EVENTS.*—

24 “(1) *DEFINITION OF EXCEPTIONAL EVENT.*—In
 25 this section:

1 “(A) *IN GENERAL.*—The term ‘exceptional
2 *event*’ means an event that—

3 “(i) *affects air quality;*

4 “(ii) *is not reasonably controllable or*
5 *preventable;*

6 “(iii) *is—*

7 “(I) *a natural event; or*

8 “(II) *an event caused by human*
9 *activity that is unlikely to recur at a*
10 *particular location; and*

11 “(iv) *is determined by the Adminis-*
12 *trator through the process established in the*
13 *regulations promulgated under paragraph*
14 *(2) to be an exceptional event.*

15 “(B) *EXCLUSIONS.*—The term ‘exceptional
16 *event*’ does not include—

17 “(i) *stagnation of air masses or mete-*
18 *orological inversions;*

19 “(ii) *a meteorological event involving*
20 *high temperatures or lack of precipitation;*
21 *or*

22 “(iii) *air pollution relating to source*
23 *noncompliance.*

24 “(2) *REGULATIONS.*—

1 “(A) *PROPOSED REGULATIONS.*—Not later
2 than March 1, 2005, after consultation with Fed-
3 eral land managers and State air pollution con-
4 trol agencies, the Administrator shall publish in
5 the Federal Register proposed regulations gov-
6 erning the review and handling of air quality
7 monitoring data influenced by exceptional
8 events.

9 “(B) *FINAL REGULATIONS.*—Not later than
10 1 year after the date on which the Administrator
11 publishes proposed regulations under subpara-
12 graph (A), and after providing an opportunity
13 for interested persons to make oral presentations
14 of views, data, and arguments regarding the pro-
15 posed regulations, the Administrator shall pro-
16 mulgate final regulations governing the review
17 and handling of air quality monitoring data in-
18 fluenced by an exceptional event that are con-
19 sistent with paragraph (3).

20 “(3) *PRINCIPLES AND REQUIREMENTS.*—

21 “(A) *PRINCIPLES.*—In promulgating regu-
22 lations under this section, the Administrator
23 shall follow—

24 “(i) the principle that protection of
25 public health is the highest priority;

1 “(ii) the principle that timely informa-
2 tion should be provided to the public in any
3 case in which the air quality is unhealthy;

4 “(iii) the principle that all ambient
5 air quality data should be included in a
6 timely manner, an appropriate Federal air
7 quality database that is accessible to the
8 public;

9 “(iv) the principle that each State
10 must take necessary measures to safeguard
11 public health regardless of the source of the
12 air pollution; and

13 “(v) the principle that air quality data
14 should be carefully screened to ensure that
15 events not likely to recur are represented ac-
16 curately in all monitoring data and anal-
17 yses.

18 “(B) *REQUIREMENTS.*—Regulations pro-
19 mulgated under this section shall, at a min-
20 imum, provide that—

21 “(i) the occurrence of an exceptional
22 event must be demonstrated by reliable, ac-
23 curate data that is promptly produced and
24 provided by Federal, State, or local govern-
25 ment agencies;

1 “(ii) a clear causal relationship must
2 exist between the measured exceedances of a
3 national ambient air quality standard and
4 the exceptional event to demonstrate that
5 the exceptional event caused a specific air
6 pollution concentration at a particular air
7 quality monitoring location;

8 “(iii) there is a public process for de-
9 termining whether an event is exceptional;
10 and

11 “(iv) there are criteria and procedures
12 for the Governor of a State to petition the
13 Administrator to exclude air quality moni-
14 toring data that is directly due to excep-
15 tional events from use in determinations by
16 the Environmental Protection Agency with
17 respect to exceedances or violations of the
18 national ambient air quality standards.

19 “(4) *INTERIM PROVISION.*—Until the effective
20 date of a regulation promulgated under paragraph
21 (2), the following guidance issued by the Adminis-
22 trator shall continue to apply:

23 “(A) *Guidance on the identification and use*
24 *of air quality data affected by exceptional events*
25 *(July 1986).*

1 “(B) Areas affected by PM-10 natural
2 events, May 30, 1996.

3 “(C) Appendices I, K, and N to part 50 of
4 title 40, Code of Federal Regulations.”.

5 **SEC. 1619. CONFORMING AMENDMENTS.**

6 Section 176(c)(4) of the Clean Air Act (42 U.S.C.
7 7506(c)(4) is amended—

8 (1) by redesignating subparagraphs (B) through
9 (D) as subparagraphs (D) through (F), respectively;

10 (2) by striking “(4)(A) No later than one year
11 after the date of enactment of the Clean Air Act
12 Amendments of 1990, the Administrator shall pro-
13 mulgate” and inserting the following:

14 “(4) CRITERIA AND PROCEDURES FOR DETER-
15 MINING CONFORMITY.—

16 “(A) IN GENERAL.—The Administrator
17 shall promulgate, and periodically update,”;

18 (3) in subparagraph (A)—

19 (A) in the second sentence, by striking “No
20 later than one year after such date of enactment,
21 the Administrator, with the concurrence of the
22 Secretary of Transportation, shall promulgate”
23 and inserting the following:

24 “(B) TRANSPORTATION PLANS, PROGRAMS,
25 AND PROJECTS.—The Administrator, with the

1 concurrence of the Secretary of Transportation,
2 shall promulgate, and periodically update,”; and

3 (B) in the third sentence, by striking “A
4 suit” and inserting the following:

5 “(C) CIVIL ACTION TO COMPEL PROMULGA-
6 TION.—A civil action”; and

7 (4) by striking subparagraph (E) (as redesign-
8 nated by paragraph (1)) and inserting the following:

9 “(E) INCLUSION OF CRITERIA AND PROCE-
10 DURES IN SIP.—Not later than 2 years after the
11 date of enactment of the Safe, Accountable, Flexi-
12 ble, and Efficient Transportation Equity Act of
13 2004, the procedures under subparagraph (A)
14 shall include a requirement that each State in-
15 clude in the State implementation plan criteria
16 and procedures for consultation in accordance
17 with the Administrator’s criteria and procedures
18 for consultation required by subparagraph
19 (D)(i).”.

20 **SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGA-**
21 **TION PROGRAM.**

22 (a) *HIGHWAY STORMWATER MITIGATION PROJECTS.*—
23 Section 133(d) of title 23, United States Code (as amended
24 by section 1401(a)(2)(B)), is amended by adding at the end
25 the following:

1 “(F) promotes natural filters;

2 “(G) otherwise mitigates water quality im-
3 pacts of highway stormwater discharges, im-
4 proves surface water quality, or enhances
5 groundwater recharge; or

6 “(H) reduces flooding caused by highway
7 stormwater discharge.

8 “(3) *FEDERAL-AID HIGHWAY AND ASSOCIATED*
9 *FACILITY.*—The term ‘Federal-aid highway and asso-
10 ciated facility’ means—

11 “(A) a Federal-aid highway; or

12 “(B) a facility or land owned by a State (or
13 political subdivision of a State) that is directly
14 associated with the Federal-aid highway.

15 “(4) *HIGHWAY STORMWATER DISCHARGE.*—The
16 term ‘highway stormwater discharge’ means
17 stormwater discharge from a Federal-aid highway, or
18 a Federal-aid highway and associated facility, that
19 was constructed before the date of enactment of this
20 section.

21 “(5) *HIGHWAY STORMWATER DISCHARGE MITI-*
22 *GATION.*—The term ‘highway stormwater discharge
23 mitigation’ means—

24 “(A) the reduction of water quality impacts
25 of stormwater discharges from Federal-aid high-

1 ways or Federal-aid highways and associated fa-
2 cilities; or

3 “(B) the enhancement of groundwater re-
4 charge from stormwater discharges from Federal-
5 aid highways or Federal-aid highways and asso-
6 ciated facilities.

7 “(6) PROGRAM.—The term ‘program’ means the
8 highway stormwater discharge mitigation program
9 established under subsection (b).

10 “(b) ESTABLISHMENT.—The Secretary shall establish
11 a highway stormwater discharge mitigation program—

12 “(1) to improve the quality of stormwater dis-
13 charge from Federal-aid highways or Federal-aid
14 highways and associated facilities; and

15 “(2) to enhance groundwater recharge.

16 “(c) PRIORITY OF PROJECTS.—For projects funded
17 from the allocation under section 133(d)(6), a State shall
18 give priority to projects sponsored by a State or local gov-
19 ernment that assist the State or local government in com-
20 plying with the Federal Water Pollution Control Act (33
21 U.S.C. 1251 et seq.).

22 “(d) GUIDANCE.—

23 “(1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this section, the Sec-
25 retary, in consultation with the Administrator, shall

1 *issue guidance to assist States in carrying out this*
2 *section.*

3 “(2) *REQUIREMENTS FOR GUIDANCE.*—*The guid-*
4 *ance issued under paragraph (1) shall include infor-*
5 *mation concerning innovative technologies and non-*
6 *structural best management practices to mitigate*
7 *highway stormwater discharges.”.*

8 (c) *CONFORMING AMENDMENT.*—*The analysis for sub-*
9 *chapter I of chapter 1 of title 23, United States Code (as*
10 *amended by section 1601(b), is amended by inserting after*
11 *the item relating to section 166 the following:*

 “167. *Highway stormwater discharge mitigation program.*”.

12 **SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATE-**
13 **RIALS TRANSPORTATION REQUIREMENTS.**

14 (a) *DEFINITION OF ELIGIBLE PERSON.*—*In this sec-*
15 *tion, the term “eligible person” means an agricultural pro-*
16 *ducer that has gross agricultural commodity sales that do*
17 *not exceed \$500,000.*

18 (b) *EXEMPTION.*—*Subject to subsection (c), part 172*
19 *of title 49, Code of Federal Regulations, shall not apply to*
20 *an eligible person that transports a fertilizer, pesticide, pro-*
21 *pane, gasoline, or diesel fuel for agricultural purposes, to*
22 *the extent determined by the Secretary.*

23 (c) *APPLICABILITY.*—*Subsection (b) applies to security*
24 *plan requirements under subpart I of part 172 of title 49,*
25 *Code of Federal Regulations (or a successor regulation).*

1 **SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.**

2 *Section 105 of the Miscellaneous Appropriations and*
 3 *Offsets Act, 2004 (Division H of the Consolidated Appro-*
 4 *priations Act, 2004 (Public Law 108–199)) is repealed.*

5 **Subtitle G—Operations**

6 **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND**
 7 **OPERATIONS.**

8 *(a) SURFACE TRANSPORTATION PROGRAM ELIGI-*
 9 *BILITY.—Section 133(b) of title 23, United States Code (as*
 10 *amended by section 1601(a)(2)), is amended by adding at*
 11 *the end the following:*

12 *“(16) Regional transportation operations col-*
 13 *laboration and coordination activities that are associ-*
 14 *ated with regional improvements, such as traffic inci-*
 15 *dent management, technology deployment, emergency*
 16 *management and response, traveler information, and*
 17 *regional congestion relief.*

18 *“(17) RUSH HOUR CONGESTION RELIEF.—*

19 *“(A) IN GENERAL.—Subject to subpara-*
 20 *graph (B), a State may spend the funds appor-*
 21 *tioned under this section to reduce traffic delays*
 22 *caused by motor vehicle accidents and break-*
 23 *downs on highways during peak driving times.*

24 *“(B) USE OF FUNDS.—A State, metropoli-*
 25 *tan planning organization, or local government*
 26 *may use the funds under subparagraph (A)—*

1 “(i) to develop a region-wide coordi-
2 nated plan to mitigate traffic delays caused
3 by motor vehicle accidents and breakdowns;

4 “(ii) to purchase or lease telecommuni-
5 cations equipment for first responders;

6 “(iii) to purchase or lease towing and
7 recovery services;

8 “(iv) to pay contractors for towing and
9 recovery;

10 “(v) to rent vehicle storage areas adja-
11 cent to roadways;

12 “(vi) to fund service patrols, equip-
13 ment, and operations;

14 “(vii) to purchase incident detection
15 equipment;

16 “(viii) to carry out training.”.

17 (b) *CONGESTION MITIGATION AND AIR QUALITY IM-*
18 *PROVEMENT PROGRAM ELIGIBILITY.*—Section 149(b)(5) of
19 title 23, United States Code, is amended by inserting “im-
20 prove transportation systems management and operations,”
21 after “intersections,”.

22 (c) *TRANSPORTATION SYSTEMS MANAGEMENT AND OP-*
23 *ERATIONS.*—

24 (1) *IN GENERAL.*—Subchapter I of chapter 1 of
25 title 23, United States Code (as amended by section

1 1620(b)), is amended by adding at the end the fol-
2 lowing:

3 **“§ 168. Transportation systems management and oper-**
4 **ations**

5 “(a) *IN GENERAL.*—The Secretary shall carry out a
6 transportation systems management and operations pro-
7 gram to—

8 “(1) *ensure efficient and effective transportation*
9 *systems management and operations on Federal-aid*
10 *highways through collaboration, coordination, and*
11 *real-time information sharing at a regional and*
12 *Statewide level among—*

13 “(A) *managers and operators of major*
14 *modes of transportation;*

15 “(B) *public safety officials; and*

16 “(C) *the general public; and*

17 “(2) *manage and operate Federal-aid highways*
18 *in a coordinated manner to preserve the capacity and*
19 *maximize the performance of highway and transit fa-*
20 *cilities for travelers and carriers.*

21 “(b) *AUTHORIZED ACTIVITIES.*—

22 “(1) *IN GENERAL.*—In carrying out the program
23 under subsection (a), the Secretary may carry out ac-
24 tivities to—

1 “(A) encourage managers and operators of
2 major modes of transportation, public safety offi-
3 cials, and transportation planners in urbanized
4 areas that are responsible for conducting the
5 day-to-day management, operations, public safe-
6 ty, and planning of transportation facilities and
7 services to collaborate on and coordinate, on a
8 regional level and in a continuous and sustained
9 manner, improved transportation systems man-
10 agement and operations; and

11 “(B) encourage States to—

12 “(i) establish a system of basic real-
13 time monitoring for the surface transpor-
14 tation system; and

15 “(ii) provide the means to share the
16 data gathered under clause (i) among—

17 “(I) highway, transit, and public
18 safety agencies;

19 “(II) jurisdictions (including
20 States, cities, counties, and metropoli-
21 tan planning organizations);

22 “(III) private-sector entities; and

23 “(IV) the general public.

24 “(2) *ACTIVITIES*.—Activities to be carried out
25 under paragraph (1) include—

1 “(A) *developing a regional concept of oper-*
2 *ations that defines a regional strategy shared by*
3 *all transportation and public safety participants*
4 *with respect to the manner in which the trans-*
5 *portation systems of the region should be man-*
6 *aged, operated, and measured;*

7 “(B) *the sharing of information among op-*
8 *erators, service providers, public safety officials,*
9 *and the general public; and*

10 “(C) *guiding, in a regionally-coordinated*
11 *manner and in a manner consistent with and*
12 *integrated into the metropolitan and statewide*
13 *transportation planning processes and regional*
14 *intelligent transportation system architecture,*
15 *the implementation of regional transportation*
16 *system management and operations initiatives,*
17 *including—*

18 “(i) *emergency evacuation and re-*
19 *sponse;*

20 “(ii) *traffic incident management;*

21 “(iii) *technology deployment; and*

22 “(iv) *traveler information systems de-*
23 *livery.*

24 “(c) *COOPERATION.—In carrying out the program*
25 *under subsection (a), the Secretary may assist and cooper-*

1 *ate with other Federal agencies, State and local govern-*
2 *ments, metropolitan planning organizations, private indus-*
3 *try, and other interested parties to improve regional col-*
4 *laboration and real-time information sharing between man-*
5 *agers and operators of major modes of transportation, pub-*
6 *lic safety officials, emergency managers, and the general*
7 *public to increase the security, safety, and reliability of*
8 *Federal-aid highways.*

9 “(d) *GUIDANCE; REGULATIONS.*—

10 “(1) *IN GENERAL.*—*In carrying out the program*
11 *under subsection (a), the Secretary may issue guid-*
12 *ance or promulgate regulations for the procurement of*
13 *transportation system management and operations*
14 *facilities, equipment, and services, including—*

15 “(A) *equipment procured in preparation for*
16 *natural disasters, disasters caused by human ac-*
17 *tivity, and emergencies;*

18 “(B) *system hardware;*

19 “(C) *software; and*

20 “(D) *software integration services.*

21 “(2) *CONSIDERATIONS.*—*In developing the guid-*
22 *ance or regulations under paragraph (1), the Sec-*
23 *retary may consider innovative procurement methods*
24 *that support the timely and streamlined execution of*

1 *transportation system management and operations*
2 *programs and projects.*

3 “(3) *FINANCIAL ASSISTANCE.*—*The Secretary*
4 *may authorize the use of funds made available under*
5 *section 104(b)(3) to provide assistance for regional*
6 *operations collaboration and coordination activities*
7 *that are associated with regional improvements, such*
8 *as—*

9 “(A) *traffic incident management;*
10 “(B) *technology deployment;*
11 “(C) *emergency management and response;*
12 “(D) *traveler information; and*
13 “(E) *congestion relief.*”.

14 (2) *CONFORMING AMENDMENT.*—*The analysis for*
15 *subchapter I of chapter 1 of title 23, United States*
16 *Code (as amended by section 1620(c)), is amended by*
17 *adding at the end:*

 “168. *Transportation systems management and operations.*”.

18 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
19 **TION PROGRAM.**

20 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
21 *23, United States Code (as amended by section 1701(c)(1)),*
22 *is amended by adding at the end the following:*

1 **“§ 169. Real-time system management information**
2 **program**

3 “(a) *IN GENERAL.*—*The Secretary shall carry out a*
4 *real-time system management information program to—*

5 “(1) *provide a nationwide system of basic real-*
6 *time information for managing and operating the*
7 *surface transportation system;*

8 “(2)(A) *identify long-range real-time highway*
9 *and transit monitoring needs; and*

10 “(B) *develop plans and strategies for meeting*
11 *those needs;*

12 “(3) *provide the capability and means to share*
13 *the basic real-time information with State and local*
14 *governments and the traveling public; and*

15 “(4) *provide the nationwide capability to mon-*
16 *itor, in real-time, the traffic and travel conditions of*
17 *major highways in the United States, and to share*
18 *that information with State and local governments*
19 *and the traveling public, to—*

20 “(A) *improve the security of the surface*
21 *transportation system;*

22 “(B) *address congestion problems;*

23 “(C) *support improved response to weather*
24 *events; and*

25 “(D) *facilitate the distribution of national*
26 *and regional traveler information.*

1 “(b) *DATA EXCHANGE FORMATS.*—Not later than 1
2 year after the date of enactment of this section, the Sec-
3 retary shall establish data exchange formats to ensure that
4 the data provided by highway and transit monitoring sys-
5 tems (including statewide incident reporting systems) can
6 readily be exchanged between jurisdictions to facilitate the
7 nationwide availability of information on traffic and travel
8 conditions.

9 “(c) *STATEWIDE INCIDENT REPORTING SYSTEM.*—Not
10 later than 2 years after the date of enactment of this section,
11 or not later than 5 years after the date of enactment of this
12 section if the Secretary determines that adequate real-time
13 communications capability will not be available within 2
14 years after the date of enactment of this section, each State
15 shall establish a statewide incident reporting system to fa-
16 cilitate the real-time electronic reporting of highway and
17 transit incidents to a central location for use in—

18 “(1) monitoring an incident;

19 “(2) providing accurate traveler information on
20 the incident; and

21 “(3) responding to the incident as appropriate.

22 “(d) *REGIONAL ITS ARCHITECTURE.*—

23 “(1) *IN GENERAL.*—In developing or updating
24 regional intelligent transportation system architec-
25 tures under section 940.9 of title 23, Code of Federal

1 *Regulations (or any successor regulation), States and*
2 *local governments shall address—*

3 “(A) *the real-time highway and transit in-*
4 *formation needs of the State or local government,*
5 *including coverage, monitoring systems, data fu-*
6 *sion and archiving, and methods of exchanging*
7 *or sharing information; and*

8 “(B) *the systems needed to meet those needs.*

9 “(2) *DATA EXCHANGE FORMATS.—In developing*
10 *or updating regional intelligent transportation system*
11 *architectures, States and local governments are en-*
12 *couraged to incorporate the data exchange formats de-*
13 *veloped by the Secretary under subsection (b) to en-*
14 *sure that the data provided by highway and transit*
15 *monitoring systems can readily be—*

16 “(A) *exchanged between jurisdictions; and*

17 “(B) *shared with the traveling public.*

18 “(e) *ELIGIBLE FUNDING.—Subject to project approval*
19 *by the Secretary, a State may—*

20 “(1) *use funds available to the State under sec-*
21 *tion 505(a) to carry out activities relating to the*
22 *planning of real-time monitoring elements; and*

23 “(2) *use funds apportioned to the State under*
24 *paragraphs (1) and (3) of section 104(b) to carry out*

1 *activities relating to the planning and deployment of*
 2 *real-time monitoring elements.”.*

3 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 4 *chapter I of chapter 1 of title 23, United States Code (as*
 5 *amended by section 1701(c)(2)), is amended adding at the*
 6 *end the following:*

“169. Real-time system management information program.”.

7 **SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN**
 8 **SERVICES.**

9 *Section 112(b)(2) of title 23, United States Code, is*
 10 *amended—*

11 (1) *in subparagraph (A), by striking “title 40”*
 12 *and all that follows through the period and inserting*
 13 *“title 40.”;*

14 (2) *by striking subparagraph (B);*

15 (3) *by redesignating subparagraphs (C) through*
 16 *(F) as subparagraphs (B) through (E), respectively;*
 17 *and*

18 (4) *by striking subparagraph (G).*

19 **SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL**
 20 **VEHICLES.**

21 *Section 345(a)(2) of the National Highway System*
 22 *Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat.*
 23 *613) is amended by adding at the end the following: “No*
 24 *additional off-duty time for a driver of such a vehicle shall*
 25 *be required in order for the driver to operate the vehicle.”.*

1 **SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGE-**
2 **MENT AREAS.**

3 (a) *FUNDING.*—Section 134(d)(3)(C)(ii) of title 23,
4 *United States Code*, is amended by striking subclause (II)
5 and inserting the following:

6 “(II) *FUNDING.*—In addition to
7 funds made available to the metropoli-
8 tan planning organization for the Lake
9 Tahoe Region under this title and
10 chapter 53 of title 49, 1 percent of all
11 funds distributed under section 202
12 shall be used to carry out the transpor-
13 tation planning process for the Lake
14 Tahoe region under this subpara-
15 graph.”.

16 (b) *SPECIAL DESIGNATION.*—Section 134(i)(1) of title
17 23, *United States Code*, is amended by adding at the end
18 the following:

19 “(C) *SPECIAL DESIGNATION.*—

20 “(i) *IN GENERAL.*—The urbanized
21 areas of Oklahoma City, Oklahoma, and
22 Norman, Oklahoma, shall be designated as
23 a single transportation management area.

24 “(ii) *ALLOCATION.*—The allocation of
25 funds to the Oklahoma City-Norman Trans-
26 portation Management Area designated

1 *under clause (i) shall be based on the aggre-*
2 *gate population of the 2 urbanized areas re-*
3 *ferred to in that clause, as determined by*
4 *the Bureau of the Census.”.*

5 ***Subtitle H—Federal-Aid***
6 ***Stewardship***

7 ***SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.***

8 *Section 103(c)(4)(B) of title 23, United States Code,*
9 *is amended—*

10 *(1) in clause (ii), by striking “12” and inserting*
11 *“25”; and*

12 *(2) in clause (iii)—*

13 *(A) in subclause (I), by striking “in the*
14 *agreement between the Secretary and the State*
15 *or States”; and*

16 *(B) by adding at the end the following:*

17 *“(III) EXISTING AGREEMENTS.—*

18 *An agreement described in clause (ii)*
19 *that is entered into before the date of*
20 *enactment of this subparagraph shall*
21 *be deemed to include the 25-year time*
22 *limitation described in that clause, re-*
23 *gardless of any earlier construction*
24 *completion date in the agreement.”.*

1 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

2 (a) *IN GENERAL.*—Section 106 of title 23, United
3 States Code, is amended—

4 (1) *by striking subsection (e) and inserting the*
5 *following:*

6 “(e) *VALUE ENGINEERING ANALYSIS.*—

7 “(1) *DEFINITION OF VALUE ENGINEERING ANAL-*
8 *YSIS.*—

9 “(A) *IN GENERAL.*—*In this subsection, the*
10 *term ‘value engineering analysis’ means a sys-*
11 *tematic process of review and analysis of a*
12 *project, during the concept and design phases, by*
13 *a multidisciplined team of persons not involved*
14 *in the project, that is conducted to provide rec-*
15 *ommendations such as those described in sub-*
16 *paragraph (B) for—*

17 “(i) *providing the needed functions*
18 *safely, reliably, and at the lowest overall*
19 *cost; and*

20 “(ii) *improving the value and quality*
21 *of the project.*

22 “(B) *INCLUSIONS.*—*The recommendations*
23 *referred to in subparagraph (A) include, with re-*
24 *spect to a project—*

1 “(i) combining or eliminating other-
2 wise inefficient use of costly parts of the
3 original proposed design for the project; and

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

8 “(2) ANALYSIS.—The State shall provide a value
9 engineering analysis or other cost-reduction analysis
10 for—

11 “(A) each project on the Federal-Aid System
12 with an estimated total cost of \$25,000,000 or
13 more;

14 “(B) a bridge project with an estimated
15 total cost of \$20,000,000 or more; and

16 “(C) any other project the Secretary deter-
17 mines to be appropriate.

18 “(3) MAJOR PROJECTS.—The Secretary may re-
19 quire more than 1 analysis described in paragraph
20 (2) for a major project described in subsection (h).

21 “(4) REQUIREMENTS.—Analyses described in
22 paragraph (1) for a bridge project shall—

23 “(A) include bridge substructure require-
24 ments based on construction material; and

25 “(B) be evaluated—

1 “(i) on engineering and economic
2 bases, taking into consideration acceptable
3 designs for bridges; and

4 “(ii) using an analysis of life-cycle
5 costs and duration of project construction.”;
6 and

7 (2) by striking subsections (g) and (h) and in-
8 serting the following:

9 “(g) OVERSIGHT PROGRAM.—

10 “(1) PROGRAM.—

11 “(A) IN GENERAL.—The Secretary shall es-
12 tablish an oversight program to monitor the ef-
13 fective and efficient use of funds made available
14 under this title.

15 “(B) MINIMUM REQUIREMENTS.—At a min-
16 imum, the program shall monitor and respond to
17 all areas relating to financial integrity and
18 project delivery.

19 “(2) FINANCIAL INTEGRITY.—

20 “(A) FINANCIAL MANAGEMENT SYSTEMS.—

21 “(i) IN GENERAL.—The Secretary shall
22 perform annual reviews of the financial
23 management systems of State transpor-
24 tation departments that affect projects ap-
25 proved under subsection (a).

1 “(ii) *REVIEW AREAS.*—*In carrying out*
2 *clause (i), the Secretary shall use risk as-*
3 *essment procedures to identify areas to be*
4 *reviewed.*

5 “(B) *PROJECT COSTS.*—*The Secretary*
6 *shall—*

7 “(i) *develop minimum standards for*
8 *estimating project costs; and*

9 “(ii) *periodically evaluate practices of*
10 *the States for—*

11 “(I) *estimating project costs;*

12 “(II) *awarding contracts; and*

13 “(III) *reducing project costs.*

14 “(C) *RESPONSIBILITY OF THE STATES.*—

15 “(i) *IN GENERAL.*—*Each State shall be*
16 *responsible for ensuring that subrecipients*
17 *of Federal funds within the State under this*
18 *section have—*

19 “(I) *sufficient accounting controls*
20 *to properly manage the Federal funds;*
21 *and*

22 “(II) *adequate project delivery*
23 *systems for projects approved under*
24 *this section.*

1 “(ii) *REVIEW BY SECRETARY.*—*The*
2 *Secretary shall periodically review moni-*
3 *toring by the States of those subrecipients.*

4 “(3) *PROJECT DELIVERY.*—*The Secretary shall—*

5 “(A) *perform annual reviews of the project*
6 *delivery system of each State, including analysis*
7 *of 1 or more activities that are involved in the*
8 *life cycle of a project; and*

9 “(B) *employ risk assessment procedures to*
10 *identify areas to be reviewed.*

11 “(4) *SPECIFIC OVERSIGHT RESPONSIBILITIES.*—
12 *Nothing in this section discharges or otherwise affects*
13 *any oversight responsibility of the Secretary—*

14 “(A) *specifically provided for under this*
15 *title or other Federal law; or*

16 “(B) *for the design and construction of all*
17 *Appalachian development highways under sec-*
18 *tion 14501 of title 40 or section 170 of this title.*

19 “(h) *MAJOR PROJECTS.*—

20 “(1) *IN GENERAL.*—*Notwithstanding any other*
21 *provision of this section, a recipient of Federal finan-*
22 *cial assistance for a project under this title with an*
23 *estimated total cost of \$1,000,000,000 or more, and*
24 *recipients for such other projects as may be identified*

1 *by the Secretary, shall submit to the Secretary for*
2 *each project—*

3 *“(A) a project management plan; and*

4 *“(B) an annual financial plan.*

5 *“(2) PROJECT MANAGEMENT PLAN.—A project*
6 *management plan shall document—*

7 *“(A) the procedures and processes that are*
8 *in effect to provide timely information to the*
9 *project decisionmakers to effectively manage the*
10 *scope, costs, schedules, and quality of, and the*
11 *Federal requirements applicable to, the project;*
12 *and*

13 *“(B) the role of the agency leadership and*
14 *management team in the delivery of the project.*

15 *“(3) FINANCIAL PLAN.—A financial plan shall—*

16 *“(A) be based on detailed estimates of the*
17 *cost to complete the project; and*

18 *“(B) provide for the annual submission of*
19 *updates to the Secretary that are based on rea-*
20 *sonable assumptions, as determined by the Sec-*
21 *retary, of future increases in the cost to complete*
22 *the project.*

23 *“(i) OTHER PROJECTS.—A recipient of Federal finan-*
24 *cial assistance for a project under this title that receives*
25 *\$100,000,000 or more in Federal assistance for the project,*

1 *and that is not covered by subsection (h), shall prepare, and*
2 *make available to the Secretary at the request of the Sec-*
3 *retary, an annual financial plan for the project.”.*

4 *(b) CONFORMING AMENDMENTS.—*

5 *(1) Section 114(a) of title 23, United States*
6 *Code, is amended—*

7 *(A) in the first sentence by striking “high-*
8 *ways or portions of highways located on a Fed-*
9 *eral-aid system” and inserting “Federal-aid*
10 *highway or a portion of a Federal-aid highway”;*
11 *and*

12 *(B) by striking the second sentence and in-*
13 *serting “The Secretary shall have the right to*
14 *conduct such inspections and take such corrective*
15 *action as the Secretary determines to be appro-*
16 *priate.”.*

17 *(2) Section 117 of title 23, United States Code,*
18 *is amended—*

19 *(A) by striking subsection (d); and*

20 *(B) by redesignating subsections (e) through*
21 *(h) as subsections (d) through (g), respectively.*

22 *(c) CONTRACTOR SUSPENSION AND DEBARMENT POL-*
23 *ICY; SHARING FRAUD MONETARY RECOVERIES.—*

24 *(1) IN GENERAL.—Section 307 of title 49,*
25 *United States Code, is amended to read as follows:*

1 **“§307. Contractor suspension and debarment policy;**
2 **sharing fraud monetary recoveries**

3 “(a) *MANDATORY ENFORCEMENT POLICY.*—

4 “(1) *IN GENERAL.*—*Notwithstanding any other*
5 *provision of law, the Secretary—*

6 “(A) *shall debar any contractor or subcon-*
7 *tractor convicted of a criminal or civil offense*
8 *involving fraud relating to a project receiving*
9 *Federal highway or transit funds for such period*
10 *as the Secretary determines to be appropriate;*
11 *and*

12 “(B) *subject to approval by the Attorney*
13 *General—*

14 “(i) *except as provided in paragraph*
15 *(2), shall suspend any contractor or subcon-*
16 *tractor upon indictment for criminal or*
17 *civil offenses involving fraud; and*

18 “(ii) *may exclude nonaffiliated sub-*
19 *sidaries of a debarred business entity.*

20 “(2) *NATIONAL SECURITY EXCEPTION.*—*If the*
21 *Secretary finds that mandatory debarment or suspen-*
22 *sion of a contractor or subcontractor under paragraph*
23 *(1) would be contrary to the national security of the*
24 *United States, the Secretary—*

25 “(A) *may waive the debarment or suspen-*
26 *sion; and*

1 “(B) in the instance of each waiver, shall
2 provide notification to Congress of the waiver
3 with appropriate details.

4 “(b) SHARING OF MONETARY RECOVERIES.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law—

7 “(A) monetary judgments accruing to the
8 Federal Government from judgments in Federal
9 criminal prosecutions and civil judgments per-
10 taining to fraud in highway and transit pro-
11 grams shall be shared with the State or local
12 transit agency involved; and

13 “(B) the State or local transit agency shall
14 use the funds for transportation infrastructure
15 and oversight activities relating to programs au-
16 thorized under title 23 and this title.

17 “(2) AMOUNT.—The amount of recovered funds
18 to be shared with an affected State or local transit
19 agency shall be—

20 “(A) determined by the Attorney General,
21 in consultation with the Secretary; and

22 “(B) considered to be Federal funds to be
23 used in compliance with other relevant Federal
24 transportation laws (including regulations).

1 “(3) *FRAUDULENT ACTIVITY.*—Paragraph (1)
2 *shall not apply in any case in which a State or local*
3 *transit agency is found by the Attorney General, in*
4 *consultation with the Secretary, to have been involved*
5 *or negligent with respect to the fraudulent activities.”.*

6 (2) *CONFORMING AMENDMENT.*—*The analysis for*
7 *chapter 3 of title 49, United States Code, is amended*
8 *by striking the item relating to section 307 and in-*
9 *serting the following:*

“307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.”.

10 **SEC. 1803. DESIGN-BUILD CONTRACTING.**

11 *Section 112(b)(3) of title 23, United States Code, is*
12 *amended by striking subparagraph (C) and inserting the*
13 *following:*

14 “(C) *QUALIFIED PROJECTS.*—*A qualified*
15 *project referred to in subparagraph (A) is a*
16 *project under this chapter (including intermodal*
17 *projects) for which the Secretary has approved*
18 *the use of design-build contracting under criteria*
19 *specified in regulations promulgated by the Sec-*
20 *retary.”.*

21 **SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

22 (a) *ADVANCE CONSTRUCTION.*—*Section 115 of title 23,*
23 *United States Code, is amended—*

1 (1) *by redesignating subsection (c) as subsection*
2 *(d);*

3 (2) *by redesignating subsections (a)(2),*
4 *(a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),*
5 *and (c)(2), respectively, and indenting appropriately;*

6 (3) *by striking “(a) CONGESTION” and all that*
7 *follows through subsection (a)(1)(B);*

8 (4) *by striking subsection (b); and*

9 (5) *by inserting after the section heading the fol-*
10 *lowing:*

11 “(a) *IN GENERAL.—The Secretary may authorize a*
12 *State to proceed with a project authorized under this title—*

13 “(1) *without the use of Federal funds; and*

14 “(2) *in accordance with all procedures and re-*
15 *quirements applicable to the project other than those*
16 *procedures and requirements that limit the State to*
17 *implementation of a project—*

18 “(A) *with the aid of Federal funds pre-*
19 *viously apportioned or allocated to the State; or*

20 “(B) *with obligation authority previously*
21 *allocated to the State.*

22 “(b) *OBLIGATION OF FEDERAL SHARE.—The Sec-*
23 *retary, on the request of a State and execution of a project*
24 *agreement, may obligate all or a portion of the Federal*

1 *share of the project authorized under this section from any*
2 *category of funds for which the project is eligible.”.*

3 (b) *OBLIGATION AND RELEASE OF FUNDS.—Section*
4 *118 of title 23, United States Code, is amended by striking*
5 *subsection (d) and inserting the following:*

6 “(d) *OBLIGATION AND RELEASE OF FUNDS.—*

7 “(1) *IN GENERAL.—Funds apportioned or allo-*
8 *cated to a State for a particular purpose for any fis-*
9 *cal year shall be considered to be obligated if a sum*
10 *equal to the total of the funds apportioned or allo-*
11 *cated to the State for that purpose for that fiscal year*
12 *and previous fiscal years is obligated.*

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

16 “(A) *credited to the same class of funds pre-*
17 *viously apportioned or allocated to the State;*
18 *and*

19 “(B) *immediately available for obligation.*

20 “(3) *NET OBLIGATIONS.—Notwithstanding any*
21 *other provision of law (including a regulation), obli-*
22 *gations recorded against funds made available under*
23 *this section shall be recorded and reported as net obli-*
24 *gations.”.*

1 **SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY**
2 **PROJECTS.**

3 *Section 118(c)(1) of title 23, United States Code, is*
4 *amended—*

5 *(1) by striking “\$50,000,000” and all that*
6 *follows through “2003” and inserting*
7 *“\$100,000,000 for each of fiscal years 2004*
8 *through 2009”; and*

9 *(2) by striking “Transportation Equity Act*
10 *for the 21st Century” and inserting “Safe, Ac-*
11 *countable, Flexible, and Efficient Transportation*
12 *Equity Act of 2004”.*

13 **SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

14 *(a) FEDERAL SHARE PAYABLE.—*

15 *(1) IN GENERAL.—Section 120(k) of title 23,*
16 *United States Code, is amended—*

17 *(A) by striking “Federal-aid highway”; and*

18 *(B) by striking “section 104” and inserting*
19 *“this title or chapter 53 of title 49”.*

20 *(2) TECHNICAL REFERENCES.—Section 120(l) of*
21 *title 23, United States Code, is amended by striking*
22 *“section 104” and inserting “this title or chapter 53*
23 *of title 49”.*

24 *(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-*
25 *AID PROJECTS.—Section 132 of title 23, United States*
26 *Code, is amended—*

1 (1) *by striking the first 2 sentences and inserting*
2 *the following:*

3 “(a) *IN GENERAL.—In a case in which a proposed*
4 *Federal-aid project is to be undertaken by a Federal agency*
5 *in accordance with an agreement between a State and the*
6 *Federal agency, the State may—*

7 *“(1) direct the Secretary to transfer the funds for*
8 *the Federal share of the project directly to the Federal*
9 *agency; or*

10 *“(2) make such deposit with, or payment to, the*
11 *Federal agency as is required to meet the obligation*
12 *of the State under the agreement for the work under-*
13 *taken or to be undertaken by the Federal agency.*

14 “(b) *REIMBURSEMENT.—On execution of a project*
15 *agreement with a State described in subsection (a), the Sec-*
16 *retary may reimburse the State, using any available funds,*
17 *for the estimated Federal share under this title of the obliga-*
18 *tion of the State deposited or paid under subsection*
19 *(a)(2).”;* and

20 (2) *in the last sentence, by striking “Any sums”*
21 *and inserting the following:*

22 “(c) *RECOVERY AND CREDITING OF FUNDS.—Any*
23 *sums”.*

24 (c) *ALLOCATIONS.—Section 202 of title 23, United*
25 *States Code, is amended—*

1 (1) *in subsection (a), by striking “(a) On Octo-*
2 *ber 1” and all that follows through “Such allocation”*
3 *and inserting the following:*

4 “(a) *ALLOCATION BASED ON NEED.—*

5 “(1) *IN GENERAL.—On October 1 of each fiscal*
6 *year, the Secretary shall allocate sums authorized to*
7 *be appropriated for the fiscal year for forest develop-*
8 *ment roads and trails according to the relative needs*
9 *of the various national forests and grasslands.*

10 “(2) *PLANNING.—The allocation under para-*
11 *graph (1)”;*

12 (2) *by striking subsection (b) and inserting the*
13 *following:*

14 “(b) *ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—*

15 “(1) *PUBLIC LANDS HIGHWAYS.—*

16 “(A) *IN GENERAL.—On October 1 of each*
17 *fiscal year, the Secretary shall allocate 33¹/₃ per-*
18 *cent of the sums authorized to be appropriated*
19 *for that fiscal year for public lands highways*
20 *among those States having unappropriated or*
21 *unreserved public lands, or nontaxable Indian*
22 *lands or other Federal reservations, on the basis*
23 *of need in the States, respectively, as determined*
24 *by the Secretary, on application of the State*

1 *transportation departments of the respective*
2 *States.*

3 “(B) *PREFERENCE.*—*In making the alloca-*
4 *tion under subparagraph (A), the Secretary shall*
5 *give preference to those projects that are signifi-*
6 *cantly impacted by Federal land and resource*
7 *management activities that are proposed by a*
8 *State that contains at least 3 percent of the total*
9 *public land in the United States.*

10 “(2) *FOREST HIGHWAYS.*—

11 “(A) *IN GENERAL.*—*On October 1 of each*
12 *fiscal year, the Secretary shall allocate 66²/₃ per-*
13 *cent of the funds authorized to be appropriated*
14 *for public lands highways for forest highways in*
15 *accordance with section 134 of the Federal-Aid*
16 *Highway Act of 1987 (23 U.S.C. 202 note; 101*
17 *Stat. 173).*

18 “(B) *PUBLIC ACCESS TO AND WITHIN NA-*
19 *TIONAL FOREST SYSTEM.*—*In making the alloca-*
20 *tion under subparagraph (A), the Secretary shall*
21 *give equal consideration to projects that provide*
22 *access to and within the National Forest System,*
23 *as identified by the Secretary of Agriculture*
24 *through—*

1 “(i) renewable resource and land use
2 planning; and

3 “(ii) assessments of the impact of that
4 planning on transportation facilities.”;

5 (3) in subsection (c)—

6 (A) by striking “(c) On” and inserting the
7 following:

8 “(c) *PARK ROADS AND PARKWAYS.*—

9 “(1) *IN GENERAL.*—On”; and

10 (B) by adding at the end the following:

11 “(2) *PRIORITY.*—

12 “(A) *DEFINITION OF QUALIFYING NATIONAL*
13 *PARK.*—In this paragraph, the term “qualifying
14 national park” means a National Park that is
15 used more than 1,000,000 recreational visitor
16 days per year, based on an average of the 3 most
17 recent years of available data from the National
18 Park Service.

19 “(B) *PRIORITY.*—Notwithstanding any
20 other provision of law, with respect to funds au-
21 thorized for park roads and parkways, the Sec-
22 retary shall give priority in the allocation of
23 funds to projects for highways that—

24 “(i) are located in, or provide access
25 to, a qualifying National Park; and

1 “(ii) were initially constructed before
2 1940.

3 “(C) *PRIORITY CONFLICTS.*—If there is a
4 conflict between projects described in subpara-
5 graph (B), the Secretary shall give highest pri-
6 ority to projects that—

7 “(i) are in, or that provide access to,
8 parks that are adjacent to a National Park
9 of a foreign country; or

10 “(ii) are located in more than 1
11 State;”;

12 (4) in subsection (d)—

13 (A) in paragraph (1)—

14 (i) in the paragraph heading, by strik-
15 ing “1999” and inserting “2005”; and

16 (ii) by striking “1999” and inserting
17 “2005”;

18 (B) in paragraph (2)—

19 (i) in the paragraph heading, by strik-
20 ing “2000” and inserting “2005”;

21 (ii) in subparagraphs (A), (B), and
22 (D), by striking “2000” each place it ap-
23 pears and inserting “2005”;

1 (iii) in subparagraph (B), by striking
2 “1999” each place it appears and inserting
3 “2004”; and

4 (iv) by adding at the end the following:
5 “(E) TRANSFERRED FUNDS.—

6 “(i) IN GENERAL.—Not later than 30
7 days after the date on which funds are
8 made available to the Secretary of the Inte-
9 rior under this paragraph, the funds shall
10 be distributed to, and available for imme-
11 diate use by, the eligible Indian tribes, in
12 accordance with the formula applicable for
13 each fiscal year.

14 “(ii) FORMULA.—If the Secretary of
15 the Interior has not promulgated final regu-
16 lations for the distribution of funds under
17 clause (i) for a fiscal year by the date on
18 which the funds for the fiscal year are re-
19 quired to be distributed under that clause,
20 the Secretary of the Interior shall distribute
21 the funds under clause (i) in accordance
22 with the applicable funding formula for the
23 preceding year.

24 “(iii) USE OF FUNDS.—Notwith-
25 standing any other provision of this section,

1 *funds available to Indian tribes for Indian*
2 *reservation roads shall be expended on*
3 *projects identified in a transportation im-*
4 *provement program approved by the Sec-*
5 *retary.”;*

6 *(C) in paragraph (3)—*

7 *(i) in subparagraph (A), by striking*
8 *“under this title” and inserting “under this*
9 *chapter and section 125(e)”;* and

10 *(ii) by adding at the end the following:*

11 *“(C) FEDERAL LANDS HIGHWAY PROGRAM*
12 *DEMONSTRATION PROJECT.—*

13 *“(i) IN GENERAL.—The Secretary shall*
14 *establish a demonstration project under*
15 *which all funds made available under this*
16 *chapter for Indian reservation roads and*
17 *for highway bridges located on Indian res-*
18 *ervation roads as provided for in subpara-*
19 *graph (A) shall be made available, on the*
20 *request of an affected Indian tribal govern-*
21 *ment, to the Indian tribal government for*
22 *use in carrying out, in accordance with the*
23 *Indian Self-Determination and Education*
24 *Assistance Act (25 U.S.C. 450b et seq.), con-*
25 *tracts and agreements for the planning, re-*

1 search, engineering, and construction de-
2 scribed in that subparagraph.

3 “(ii) *EXCLUSION OF AGENCY PARTICI-*
4 *PATION.*—In accordance with subparagraph
5 (B), all funds for Indian reservation roads
6 and for highway bridges located on Indian
7 reservation roads to which clause (i) applies
8 shall be paid without regard to the organi-
9 zational level at which the Federal lands
10 highway program has previously carried
11 out the programs, functions, services, or ac-
12 tivities involved.

13 “(iii) *SELECTION OF PARTICIPATING*
14 *TRIBES.*—

15 “(I) *PARTICIPANTS.*—

16 “(aa) *IN GENERAL.*—In ad-
17 dition to Indian tribes or tribal
18 organizations that, as of the date
19 of enactment of this subpara-
20 graph, are contracting or com-
21 pacting for any Indian reserva-
22 tion road function or program, for
23 each fiscal year, the Secretary
24 may select up to 15 Indian tribes
25 from the applicant pool described

1 in subclause (II) to participate in
2 the demonstration project carried
3 out under clause (i).

4 “(bb) CONSORTIA.—Two or
5 more Indian tribes that are other-
6 wise eligible to participate in a
7 program or activity to which this
8 title applies may form a consor-
9 tium to be considered as a single
10 Indian tribe for the purpose of be-
11 coming part of the applicant pool
12 under subclause (II).

13 “(cc) FUNDING.—An Indian
14 tribe participating in the pilot
15 program under this subparagraph
16 shall receive funding in an
17 amount equal to the sum of the
18 funding that the Indian tribe
19 would otherwise receive in accord-
20 ance with the funding formula es-
21 tablished under the other provi-
22 sions of this subsection, and an
23 additional percentage of that
24 amount equal to the percentage of
25 funds withheld during the appli-

1 *cable fiscal year for the road pro-*
2 *gram management costs of the*
3 *Bureau of Indian Affairs under*
4 *subsection (f)(1).*

5 *“(II) APPLICANT POOL.—The ap-*
6 *plicant pool described in this subclause*
7 *shall consist of each Indian tribe (or*
8 *consortium) that—*

9 *“(aa) has successfully com-*
10 *pleted the planning phase de-*
11 *scribed in subclause (IV);*

12 *“(bb) has requested partici-*
13 *pation in the demonstration*
14 *project under this subparagraph*
15 *through the adoption of a resolu-*
16 *tion or other official action by the*
17 *tribal governing body; and*

18 *“(cc) has demonstrated fi-*
19 *nancial stability and financial*
20 *management capability in accord-*
21 *ance with subclause (III) during*
22 *the 3-fiscal-year period imme-*
23 *diately preceding the fiscal year*
24 *for which participation under this*
25 *subparagraph is being requested.*

1 “(III) *CRITERIA FOR DETER-*
2 *MINING FINANCIAL STABILITY AND FI-*
3 *NANCIAL MANAGEMENT CAPACITY.*—*For*
4 *the purpose of subclause (II), evidence*
5 *that, during the 3-year period referred*
6 *to in subclause (II)(cc), an Indian*
7 *tribe had no uncorrected significant*
8 *and material audit exceptions in the*
9 *required annual audit of the Indian*
10 *tribe’s self-determination contracts or*
11 *self-governance funding agreements*
12 *with any Federal agency shall be con-*
13 *clusive evidence of the required sta-*
14 *bility and capability.*

15 “(IV) *PLANNING PHASE.*—

16 “(aa) *IN GENERAL.*—*An In-*
17 *Indian tribe (or consortium) re-*
18 *questing participation in the dem-*
19 *onstration project under this sub-*
20 *paragraph shall complete a plan-*
21 *ning phase that shall include legal*
22 *and budgetary research and inter-*
23 *nal tribal government and organi-*
24 *zation preparation.*

1 “(bb) *ELIGIBILITY.*—An In-
2 dian tribe (or consortium) de-
3 scribed in item (aa) shall be eligi-
4 ble to receive a grant under this
5 subclause to plan and negotiate
6 participation in a project de-
7 scribed in that item.

8 “(V) *REPORT TO CONGRESS.*—Not
9 later than September 30, 2006, the Sec-
10 retary shall submit to Congress a re-
11 port describing the implementation of
12 the demonstration project and any rec-
13 ommendations for improving the
14 project.”; and

15 (D) in paragraph (4)—

16 (i) in subparagraph (B)—

17 (I) by striking “(B) *RESERVA-*
18 *TION.*—Of the amounts” and all that
19 follows through “to replace,” and in-
20 serting the following:

21 “(B) *FUNDING.*—

22 “(i) *AUTHORIZATION OF APPROPRIA-*
23 *TIONS.*—In addition to any other funds
24 made available for Indian reservation roads
25 for each fiscal year, there is authorized to be

1 *appropriated from the Highway Trust*
2 *Fund (other than the Mass Transit Ac-*
3 *count) \$15,000,000 for each of fiscal years*
4 *2004 through 2009 to carry out planning,*
5 *design, engineering, preconstruction, con-*
6 *struction, and inspection of projects to re-*
7 *place,”; and*

8 *(II) by adding at the end the fol-*
9 *lowing:*

10 *“(i) AVAILABILITY.—Funds made*
11 *available to carry out this subparagraph*
12 *shall be available for obligation in the same*
13 *manner as if the funds were apportioned*
14 *under chapter 1.”; and*

15 *(ii) by striking subparagraph (D) and*
16 *inserting the following:*

17 *“(D) APPROVAL REQUIREMENT.—*

18 *“(i) IN GENERAL.—Subject to clause*
19 *(ii), on request by an Indian tribe or the*
20 *Secretary of the Interior, the Secretary may*
21 *make funds available under this subsection*
22 *for preliminary engineering for Indian res-*
23 *ervation road bridge projects.*

24 *“(ii) CONSTRUCTION AND CONSTRUC-*
25 *TION ENGINEERING.—The Secretary may*

1 *make funds available under clause (i) for*
2 *construction and construction engineering*
3 *only after approval by the Secretary of ap-*
4 *plicable plans, specifications, and esti-*
5 *mates.”; and*

6 (5) *by adding at the end the following:*

7 “(f) *ADMINISTRATION OF INDIAN RESERVATION*
8 *ROADS.—*

9 “(1) *CONTRACT AUTHORITY.—Notwithstanding*
10 *any other provision of law, for any fiscal year, not*
11 *more than 6 percent of the contract authority*
12 *amounts made available from the Highway Trust*
13 *Fund to the Bureau of Indian Affairs under this title*
14 *shall be used to pay the expenses incurred by the Bu-*
15 *reau in administering the Indian reservation roads*
16 *program (including the administrative expenses relat-*
17 *ing to individual projects associated with the Indian*
18 *reservation roads program).*

19 “(2) *HEALTH AND SAFETY ASSURANCES.—Not-*
20 *withstanding any other provision of law, an Indian*
21 *tribe or tribal organization may commence road and*
22 *bridge construction under the Transportation Equity*
23 *Act for the 21st Century (Public Law 105-178) or the*
24 *Safe, Accountable, Flexible, and Efficient Transpor-*
25 *tation Equity Act of 2004 that is funded through a*

1 *contract or agreement under the Indian Self-Deter-*
2 *mination and Education Assistance Act (25 U.S.C.*
3 *450b et seq.) if the Indian tribe or tribal organiza-*
4 *tion—*

5 “(A) provides assurances in the contract or
6 agreement that the construction will meet or ex-
7 ceed applicable health and safety standards;

8 “(B) obtains the advance review of the
9 plans and specifications from a licensed profes-
10 sional that has certified that the plans and speci-
11 fications meet or exceed the applicable health
12 and safety standards; and

13 “(C) provides a copy of the certification
14 under subparagraph (B) to the Assistant Sec-
15 retary for Indian Affairs.”

16 (d) *PLANNING AND AGENCY COORDINATION.—Section*
17 *204 of title 23, United States Code, is amended—*

18 (1) *in subsection (a)(1), by inserting “refuge*
19 *roads, recreation roads,” after “parkways,”;*

20 (2) *by striking subsection (b) and inserting the*
21 *following:*

22 “(b) *USE OF FUNDS.—*

23 “(1) *IN GENERAL.—Funds available for public*
24 *lands highways, recreation roads, park roads and*
25 *parkways, forest highways, and Indian reservation*

1 *roads shall be used by the Secretary and the Secretary*
2 *of the appropriate Federal land management agency*
3 *to pay the cost of transportation planning, research,*
4 *engineering, operation and maintenance of transit fa-*
5 *cilities, and construction of the highways, roads,*
6 *parkways, forest highways, and transit facilities lo-*
7 *cated on public land, national parks, and Indian res-*
8 *ervations.*

9 *“(2) CONTRACT.—In connection with an activity*
10 *described in paragraph (1), the Secretary and the*
11 *Secretary of the appropriate Federal land manage-*
12 *ment agency may enter into a construction contract*
13 *or other appropriate agreement with—*

14 *“(A) a State (including a political subdivi-*
15 *sion of a State); or*

16 *“(B) an Indian tribe.*

17 *“(3) INDIAN RESERVATION ROADS.—In the case*
18 *of an Indian reservation road—*

19 *“(A) Indian labor may be used, in accord-*
20 *ance with such rules and regulations as may be*
21 *promulgated by the Secretary of the Interior, to*
22 *carry out any construction or other activity de-*
23 *scribed in paragraph (1); and*

24 *“(B) funds made available to carry out this*
25 *section may be used to pay bridge*

1 *preconstruction costs (including planning, de-*
2 *sign, and engineering).*

3 “(4) *FEDERAL EMPLOYMENT.*—*No maximum on*
4 *Federal employment shall be applicable to construc-*
5 *tion or improvement of Indian reservation roads.*

6 “(5) *AVAILABILITY OF FUNDS.*—*Funds available*
7 *under this section for each class of Federal lands*
8 *highway shall be available for any kind of transpor-*
9 *tation project eligible for assistance under this title*
10 *that is within or adjacent to, or that provides access*
11 *to, the areas served by the particular class of Federal*
12 *lands highway.*

13 “(6) *RESERVATION OF FUNDS.*—*The Secretary of*
14 *the Interior may reserve funds from administrative*
15 *funds of the Bureau of Indian Affairs that are associ-*
16 *ated with the Indian reservation road program to fi-*
17 *nance the Indian technical centers authorized under*
18 *section 504(b).”; and*

19 (3) *in subsection (k)(1)—*

20 (A) *in subparagraph (B)—*

21 (i) *by striking “(2), (5),” and inserting*

22 *“(2), (3), (5),”; and*

23 (ii) *by striking “and” after the semi-*
24 *colon;*

1 (B) in subparagraph (C), by striking the
2 period at the end and inserting a semicolon; and

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

4 “(D) maintenance of public roads in na-
5 tional fish hatcheries under the jurisdiction of
6 the United States Fish and Wildlife Service;

7 “(E) the non-Federal share of the cost of
8 any project funded under this title or chapter 53
9 of title 49 that provides access to or within a
10 wildlife refuge; and

11 “(F) maintenance and improvement of rec-
12 reational trails (except that expenditures on
13 trails under this subparagraph shall not exceed
14 5 percent of available funds for each fiscal
15 year).”.

16 (e) MAINTENANCE OF INDIAN RESERVATION ROADS.—
17 Section 204(c) of title 23, United States Code, is amended
18 by striking the second and third sentences and inserting the
19 following: “Notwithstanding any other provision of this
20 title, of the amount of funds apportioned for Indian reserva-
21 tion roads from the Highway Trust Fund, an Indian tribe
22 may expend for the purpose of maintenance not more than
23 the greater of \$250,000 or 25 percent of the apportioned
24 amount. The Bureau of Indian Affairs shall continue to re-
25 tain primary responsibility, including annual funding re-

1 *quest responsibility, for road maintenance programs on In-*
2 *dian reservations. The Secretary shall ensure that funding*
3 *made available under this subsection for maintenance of In-*
4 *dian reservation roads for each fiscal year is supplementary*
5 *to and not in lieu of any obligation of funds by the Bureau*
6 *of Indian Affairs for road maintenance programs on Indian*
7 *reservations.”.*

8 *(e) SAFETY.—*

9 *(1) ALLOCATIONS.—Section 202 of title 23,*
10 *United States Code (as amended by subsection (c)(5)),*
11 *is amended by adding at the end the following:*

12 *“(g) SAFETY.—Subject to paragraph (2), on October*
13 *1 of each fiscal year, the Secretary shall allocate the sums*
14 *authorized to be appropriated for the fiscal year for safety*
15 *as follows:*

16 *“(1) 12 percent to the Bureau of Reclamation.*

17 *“(2) 18 percent to the Bureau of Indian Affairs.*

18 *“(3) 17 percent to the Bureau of Land Manage-*
19 *ment.*

20 *“(4) 17 percent to the Forest Service.*

21 *“(5) 7 percent to the United States Fish and*
22 *Wildlife Service.*

23 *“(6) 17 percent to the National Park Service.*

24 *“(7) 12 percent to the Corps of Engineers.”.*

1 (2) *AVAILABILITY OF FUNDS.*—Section 203 of
2 *title 23, United States Code, is amended by inserting*
3 *“safety projects or activities,” after “refuge roads,”*
4 *each place it appears.*

5 (3) *USE OF FUNDING.*—Section 204 of title 23,
6 *United States Code, is amended by adding at the end*
7 *the following:*

8 *“(l) SAFETY ACTIVITIES.—*

9 *“(1) IN GENERAL.—Notwithstanding any other*
10 *provision of this title, funds made available for safety*
11 *under this title shall be used by the Secretary and the*
12 *head of the appropriate Federal land management*
13 *agency only to pay the costs of carrying out—*

14 *“(A) transportation safety improvement ac-*
15 *tivities;*

16 *“(B) activities to eliminate high-accident*
17 *locations;*

18 *“(C) projects to implement protective meas-*
19 *ures at, or eliminate, at-grade railway-highway*
20 *crossings;*

21 *“(D) collection of safety information;*

22 *“(E) transportation planning projects or*
23 *activities;*

24 *“(F) bridge inspection;*

1 “(G) *development and operation of safety*
2 *management systems;*

3 “(H) *highway safety education programs;*
4 *and*

5 “(I) *other eligible safety projects and activi-*
6 *ties authorized under chapter 4.*

7 “(2) *CONTRACTS.—In carrying out paragraph*
8 *(1), the Secretary and the Secretary of the appro-*
9 *priate Federal land management agency may enter*
10 *into contracts or agreements with—*

11 “(A) *a State;*

12 “(B) *a political subdivision of a State; or*

13 “(C) *an Indian tribe.*

14 “(3) *EXCEPTION.—The cost sharing requirements*
15 *under the Federal Water Project Recreation Act (16*
16 *U.S.C. 460l–12 et seq.) shall not apply to funds made*
17 *available to the Bureau of Reclamation under this*
18 *subsection.”.*

19 “(f) *RECREATION ROADS.—*

20 “(1) *AUTHORIZATIONS.—Section 201 of title 23,*
21 *United States Code, is amended in the first sentence*
22 *by inserting “recreation roads,” after “public lands*
23 *highways,”.*

1 (2) *ALLOCATIONS.*—Section 202 of title 23,
2 *United States Code (as amended by subsection (e)(1)),*
3 *is amended by adding at the end the following:*

4 “(h) *RECREATION ROADS.*—

5 “(1) *IN GENERAL.*—Subject to paragraphs (2)
6 *and (3), on October 1 of each fiscal year, the Sec-*
7 *retary, after completing the transfer under subsection*
8 *204(i), shall allocate the sums authorized to be appro-*
9 *priated for the fiscal year for recreation roads as fol-*
10 *lows:*

11 “(A) 8 percent to the Bureau of Reclama-
12 *tion.*

13 “(B) 9 percent to the Corps of Engineers.

14 “(C) 13 percent to the Bureau of Land
15 *Management.*

16 “(D) 70 percent to the Forest Service.

17 “(2) *ALLOCATION WITHIN AGENCIES.*—*Recre-*
18 *ation road funds allocated to a Federal agency under*
19 *paragraph (1) shall be allocated for projects and ac-*
20 *tivities of the Federal agency according to the relative*
21 *needs of each area served by recreation roads under*
22 *the jurisdiction of the Federal agency, as indicated in*
23 *the approved transportation improvement program*
24 *for each Federal agency.”.*

1 (3) *AVAILABILITY OF FUNDS.*—Section 203 of
2 *title 23, United States Code, is amended—*

3 (A) *in the first sentence, by inserting*
4 *“recreation roads,” after “Indian reservation*
5 *roads,”; and*

6 (B) *in the fourth sentence, by inserting “,*
7 *recreation roads,” after “Indian roads”.*

8 (4) *USE OF FUNDING.*—Section 204 of title 23,
9 *United States Code (as amended by subsection (e)(3)),*
10 *is amended by adding at the end the following:*

11 *“(m) RECREATION ROADS.—*

12 *“(1) IN GENERAL.—Notwithstanding any other*
13 *provision of this title, funds made available for recre-*
14 *ation roads under this title shall be used by the Sec-*
15 *retary and the Secretary of the appropriate Federal*
16 *land management agency only to pay the cost of—*

17 *“(A) maintenance or improvements of exist-*
18 *ing recreation roads;*

19 *“(B) maintenance and improvements of eli-*
20 *gible projects described in paragraph (1), (2),*
21 *(3), (5), or (6) of subsection (h) that are located*
22 *in or adjacent to Federal land under the juris-*
23 *isdiction of—*

24 *“(i) the Department of Agriculture; or*

25 *“(ii) the Department of the Interior;*

1 “(C) transportation planning and adminis-
2 trative activities associated with those mainte-
3 nance and improvements; and

4 “(D) the non-Federal share of the cost of
5 any project funded under this title or chapter 53
6 of title 49 that provides access to or within Fed-
7 eral land described in subparagraph (B).

8 “(2) *CONTRACTS.*—In carrying out paragraph
9 (1), the Secretary and the Secretary of the appro-
10 priate Federal land management agency may enter
11 into contracts or agreements with—

12 “(A) a State;

13 “(B) a political subdivision of a State; or

14 “(C) an Indian tribe.

15 “(3) *NEW ROADS.*—No funds made available
16 under this section shall be used to pay the cost of the
17 design or construction of new recreation roads.

18 “(4) *COMPLIANCE WITH OTHER ENVIRONMENTAL*
19 *LAWS.*—A maintenance or improvement project that
20 is funded under this subsection, and that is consistent
21 with or has been identified in a land use plan for an
22 area under the jurisdiction of a Federal agency, shall
23 not require any additional environmental reviews or
24 assessments under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.) if—

1 “(A) the Federal agency that promulgated
2 the land use plan analyzed the specific proposal
3 for the maintenance or improvement project
4 under that Act; and

5 “(B) as of the date on which the funds are
6 to be expended, there are—

7 “(i) no significant changes to the pro-
8 posal bearing on environmental concerns;
9 and

10 “(ii) no significant new information.

11 “(5) *EXCEPTION.*—The cost sharing requirements
12 under the Federal Water Project Recreation Act (16
13 U.S.C. 460l–12 et seq.) shall not apply to funds made
14 available to the Bureau of Reclamation under this
15 subsection.”.

16 (g) *CONFORMING AMENDMENTS.*—

17 (1) Sections 120(e) and 125(e) of title 23, United
18 States Code, are amended by striking “public lands
19 highways,” each place it appears and inserting “pub-
20 lic lands highways, recreation roads,”.

21 (2) Sections 120(e), 125(e), 201, 202(a), and 203
22 of title 23, United States Code, are amended by strik-
23 ing “forest development roads” each place it appears
24 and inserting “National Forest System roads”.

1 (3) Section 202(e) of title 23, United States
2 Code, is amended by striking “Refuge System,” and
3 inserting “Refuge System and the various national
4 fish hatcheries,”.

5 (4) Section 204 of title 23, United States Code,
6 is amended—

7 (A) in subsection (a)(1), by striking “public
8 lands highways,” and inserting “public lands
9 highways, recreation roads, forest highways,”;
10 and

11 (B) in subsection (i), by striking “public
12 lands highways” each place it appears and in-
13 serting “public lands highways, recreation roads,
14 and forest highways”.

15 (5) Section 205 of title 23, United States Code,
16 is amended—

17 (A) by striking the section heading and in-
18 serting the following:

19 **“§ 205. National Forest System roads and trails”;**

20 and

21 (B) in subsections (a) and (d), by striking
22 “forest development roads” each place it appears
23 and inserting “National Forest System roads”.

1 (6) *The analysis for chapter 2 of title 23, United*
2 *States Code, is amended by striking the item relating*
3 *to section 205 and inserting the following:*

“205. National Forest System roads and trails.”.

4 (7) *Section 217(c) of title 23, United States*
5 *Code, is amended by inserting “refuge roads,” after*
6 *“Indian reservation roads,”.*

7 **SEC. 1807. HIGHWAY BRIDGE PROGRAM.**

8 (a) *IN GENERAL.*—*Section 144 of title 23, United*
9 *States Code, is amended—*

10 (1) *by striking the section heading and all that*
11 *follows through subsection (a) and inserting the fol-*
12 *lowing:*

13 **“§ 144. Highway bridge program**

14 “(a) *CONGRESSIONAL STATEMENT.*—*Congress finds*
15 *and declares that it is in the vital interest of the United*
16 *States that a highway bridge program be established to en-*
17 *able States to improve the condition of their bridges through*
18 *replacement, rehabilitation, and systematic preventative*
19 *maintenance on highway bridges over waterways, other top-*
20 *ographical barriers, other highways, or railroads at any*
21 *time at which the States and the Secretary determine that*
22 *a bridge is unsafe because of structural deficiencies, phys-*
23 *ical deterioration, or functional obsolescence.”;*

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

1 “(d) *PARTICIPATION IN PROGRAM.*—

2 “(1) *IN GENERAL.*—*On application by a State to*
3 *the Secretary for assistance in replacing or rehabili-*
4 *tating a highway bridge that has been determined to*
5 *be eligible for replacement or rehabilitation under*
6 *subsection (b) or (c), the Secretary may approve Fed-*
7 *eral participation in—*

8 “(A) *replacing the bridge with a com-*
9 *parable bridge; or*

10 “(B) *rehabilitating the bridge.*

11 “(2) *SPECIFIC KINDS OF REHABILITATION.*—*On*
12 *application by a State to the Secretary for assistance*
13 *in painting, seismic retrofit, or preventative mainte-*
14 *nance of, or installation of scour countermeasures or*
15 *applying calcium magnesium acetate, sodium acetate/*
16 *formate, or other environmentally acceptable, mini-*
17 *maximally corrosive anti-icing and de-icing compositions*
18 *to, the structure of a highway bridge, the Secretary*
19 *may approve Federal participation in the painting,*
20 *seismic retrofit, or preventative maintenance of, or*
21 *installation of scour countermeasures or application*
22 *of acetate or sodium acetate/formate or such anti-*
23 *icing or de-icing composition to, the structure.*

24 “(3) *ELIGIBILITY.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the Secretary shall determine*
3 *the eligibility of highway bridges for replacement*
4 *or rehabilitation for each State based on the*
5 *number of unsafe highway bridges in the State.*

6 “(B) *PREVENTATIVE MAINTENANCE.*—*A*
7 *State may carry out a project for preventative*
8 *maintenance on a bridge, seismic retrofit of a*
9 *bridge, or installation of scour countermeasures*
10 *to a bridge under this section without regard to*
11 *whether the bridge is eligible for replacement or*
12 *rehabilitation under this section.”;*

13 (3) *in subsection (e)*—

14 (A) *in the third sentence, by striking*
15 *“square footage” and inserting “area”;*

16 (B) *in the fourth sentence*—

17 (i) *by striking “by the total cost of any*
18 *highway bridges constructed under sub-*
19 *section (m) in such State, relating to re-*
20 *placement of destroyed bridges and ferry-*
21 *boat services, and,”; and*

22 (ii) *by striking “1997” and inserting*
23 *“2003”; and*

1 (C) in the seventh sentence, by striking “the
2 Federal-aid primary system” and inserting
3 “Federal-aid highways”;

4 (4) by striking subsections (f) and (g) and in-
5 serting the following:

6 “(f) SET ASIDES.—

7 “(1) DISCRETIONARY BRIDGE PROGRAM.—

8 “(A) IN GENERAL.—Of the amounts author-
9 ized to be appropriated to carry out the bridge
10 program under this section for each of fiscal
11 years 2004 through 2009, all but \$150,000,000
12 shall be apportioned as provided in subsection
13 (e).

14 “(B) AVAILABILITY.—The \$150,000,000 re-
15 ferred to in subparagraph (A) shall be available
16 at the discretion of the Secretary, except that not
17 to exceed \$25,000,000 of that amount shall be
18 available only for projects for the seismic retrofit
19 of bridges.

20 “(C) SET ASIDES.—For fiscal year 2004,
21 the Secretary shall provide—

22 “(i) \$50,000,000 to the State of Nevada
23 for construction of a replacement of the fed-
24 erally-owned bridge over the Hoover Dam

1 *in the Lake Mead National Recreation*
2 *Area; and*

3 “(ii) \$50,000,000 to the State of Mis-
4 *souri for construction of a structure over the*
5 *Mississippi River to connect the city of St.*
6 *Louis, Missouri, to the State of Illinois.*

7 “(2) *OFF-SYSTEM BRIDGES.—*

8 “(A) *IN GENERAL.—Not less than 15 per-*
9 *cent of the amount apportioned to each State in*
10 *each of fiscal years 2004 through 2009 shall be*
11 *expended for projects to replace, rehabilitate, per-*
12 *form systematic preventative maintenance or*
13 *seismic retrofit, or apply calcium magnesium ac-*
14 *etate, sodium acetate/formate, or other environ-*
15 *mentally acceptable, minimally corrosive anti-*
16 *icing and de-icing compositions or install scour*
17 *countermeasures to highway bridges located on*
18 *public roads, other than those on a Federal-aid*
19 *highway, or to complete the Warwick Intermodal*
20 *Station (including the construction of a people*
21 *mover between the Station and the T.F. Green*
22 *Airport).*

23 “(B) *REDUCTION OF EXPENDITURES.—The*
24 *Secretary, after consultation with State and*
25 *local officials, may, with respect to the State, re-*

1 *duce the requirement for expenditure for bridges*
2 *not on a Federal-aid highway if the Secretary*
3 *determines that the State has inadequate needs*
4 *to justify the expenditure.”;*

5 *(5) in subsection (i)—*

6 *(A) in paragraph (3), by striking “and”;*

7 *(B) in paragraph (4), by striking the period*
8 *at the end and inserting “; and”;*

9 *(C) by striking “Such reports” and all that*
10 *follows through “to Congress.”; and*

11 *(D) by adding at the end the following:*

12 *“(5) biennially submit such reports as are re-*
13 *quired under this subsection to the appropriate com-*
14 *mittees of Congress simultaneously with the report re-*
15 *quired by section 502(g).”;*

16 *(6) in the first sentence of subsection (n), by*
17 *striking “all standards” and inserting “all general*
18 *engineering standards”;*

19 *(7) in subsection (o)—*

20 *(A) in paragraph (3)—*

21 *(i) by striking “title (including this*
22 *section)” and inserting “section”; and*

23 *(ii) by inserting “200 percent of” after*
24 *“shall not exceed”; and*

25 *(B) in paragraph (4)(B)—*

1 (i) in the second sentence, by inserting

2 “200 percent of” after “not to exceed”; and

3 (ii) in the last sentence, by striking

4 “title” and inserting “section”;

5 (8) by redesignating subsections (h) through (q)

6 as subsections (g) through (p), respectively; and

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

8 “(q) CONTINUATION OF ANNUAL MATERIALS REPORT
9 ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILI-
10 TATION.—Not later than 1 year after the date of enactment
11 of this subsection, and annually thereafter, the Secretary
12 shall publish in the Federal Register a report describing
13 construction materials used in new Federal-aid bridge con-
14 struction and bridge rehabilitation projects.

15 “(r) FEDERAL SHARE.—The Federal share of the cost
16 of a project payable from funds made available to carry
17 out this section shall be the share applicable under section
18 120(b), as adjusted under subsection (d) of that section.”.

19 (b) CONFORMING AMENDMENT.—The analysis for sub-
20 chapter I of chapter 1 of title 23, United States Code, is
21 amended by striking the item relating to section 144 and
22 inserting the following:

“144. Highway bridge program.”.

1 **SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

2 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by section 1702(a)),
4 is amended by adding at the end the following:

5 **“§ 170. Appalachian development highway system**

6 “(a) *APPORTIONMENT.*—

7 “(1) *IN GENERAL.*—The Secretary shall appor-
8 tion funds made available under section 1101(7) of
9 the Safe, Accountable, Flexible, and Efficient Trans-
10 portation Equity Act of 2004 for fiscal years 2004
11 through 2009 among States based on the latest avail-
12 able estimate of the cost to construct highways and
13 access roads for the Appalachian development high-
14 way system program prepared by the Appalachian
15 Regional Commission under section 14501 of title 40.

16 “(2) *AVAILABILITY.*—Funds described in para-
17 graph (1) shall be available to construct highways
18 and access roads under chapter 145 of title 40.

19 “(b) *APPLICABILITY OF TITLE.*—Funds made avail-
20 able under section 1101(7) of the Safe, Accountable, Flexi-
21 ble, and Efficient Transportation Equity Act of 2004 for
22 the Appalachian development highway system shall be
23 available for obligation in the same manner as if the funds
24 were apportioned under this chapter, except that—

1 “(1) the Federal share of the cost of any project
2 under this section shall be determined in accordance
3 with subtitle IV of title 40; and

4 “(2) the funds shall remain available until ex-
5 pended.”.

6 **(b) CONFORMING AMENDMENTS.—**

7 **(1) USE OF TOLL CREDITS.—**Section 120(j)(1) of
8 title 23, United States Code is amended by inserting
9 “and the Appalachian development highway system
10 program under subtitle IV of title 40” after “(other
11 than the emergency relief program authorized by sec-
12 tion 125”.

13 **(2) ANALYSIS.—**The analysis of chapter 1 of title
14 23, United States Code (as amended by section
15 1702(b)), is amended by adding at the end the fol-
16 lowing:

“170. Appalachian development highway system.”.

17 **SEC. 1809. MULTISTATE CORRIDOR PROGRAM.**

18 **(a) IN GENERAL.—**Subchapter I of chapter 1 of title
19 23, United States Code (as amended by 1808(a)), is amend-
20 ed by adding at the end the following:

21 **“§ 171. Multistate corridor program**

22 **“(a) ESTABLISHMENT AND PURPOSE.—**The Secretary
23 shall carry out a program to—

24 “(1) support and encourage multistate transpor-
25 tation planning and development; and

1 “(2) *facilitate transportation decisionmaking*
2 *and coordinate project delivery involving multistate*
3 *corridors.*

4 “(b) *ELIGIBLE RECIPIENTS.*—*A State transportation*
5 *department and a metropolitan planning organization may*
6 *receive and administer funds provided under this section.*

7 “(c) *ELIGIBLE ACTIVITIES.*—*The Secretary shall make*
8 *allocations under this program for multistate highway and*
9 *multimodal planning studies and construction.*

10 “(d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—

11 “(1) *STUDIES.*—*All studies funded under this*
12 *program shall be consistent with the continuing, coop-*
13 *erative, and comprehensive planning processes re-*
14 *quired by sections 134 and 135.*

15 “(2) *CONSTRUCTION.*—*All construction funded*
16 *under this program shall be consistent with section*
17 *133(b)(1).*

18 “(e) *SELECTION CRITERIA.*—*The Secretary shall select*
19 *studies and projects to be carried out under the program*
20 *based on—*

21 “(1) *the existence and significance of signed and*
22 *binding multijurisdictional agreements;*

23 “(2) *endorsement of the study or project by ap-*
24 *plicable elected State and local representatives;*

1 “(3) *prospects for early completion of the study*
2 *or project; or*

3 “(4) *whether the projects to be studied or con-*
4 *structed are located on corridors identified by section*
5 *1105(c) of the Intermodal Surface Transportation Ef-*
6 *iciency Act of 1991 (Public Law 102-240; 105 Stat.*
7 *2032).*

8 “(f) *PROGRAM PRIORITIES.—In administering the*
9 *program, the Secretary shall—*

10 “(1) *encourage and enable States and other ju-*
11 *risdictions to work together to develop plans for*
12 *multimodal and multijurisdictional transportation*
13 *decisionmaking; and*

14 “(2) *give priority to studies or projects that em-*
15 *phasize multimodal planning, including planning for*
16 *operational improvements that—*

17 “(A) *increase—*

18 “(i) *mobility;*

19 “(ii) *freight productivity;*

20 “(iii) *access to marine or inland ports;*

21 “(iv) *safety and security; and*

22 “(v) *reliability; and*

23 “(B) *enhance the environment.*

24 “(g) *FEDERAL SHARE.—Except as provided in section*
25 *120, the Federal share of the cost of a study or project car-*

1 ried out under the program, using funds from all Federal
2 sources, shall be 80 percent.

3 “(h) *APPLICABILITY.*—Funds authorized to be appro-
4 priated under section 1101(10) of the Safe, Accountable,
5 Flexible, and Efficient Transportation Equity Act of 2004
6 to carry out this section shall be available for obligation
7 in the same manner as if the funds were apportioned under
8 this chapter.”.

9 (b) *CONFORMING AMENDMENT.*—The analysis for sub-
10 chapter I of chapter 1 of title 23, United States Code (as
11 amended by section 1809(b)) is amended by adding at the
12 end the following:

“171. Multistate corridor program.”.

13 **SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY,**
14 **AND CAPACITY PROGRAM.**

15 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
16 23, United States Code (as amended by section 1809(a)),
17 is amended by adding at the end the following:

18 **“§ 172. Border planning, operations, technology, and**
19 **capacity program**

20 “(a) *DEFINITIONS.*—In this section:

21 “(1) *BORDER STATE.*—The term ‘border State’
22 means any of the States of Alaska, Arizona, Cali-
23 fornia, Idaho, Maine, Michigan, Minnesota, Montana,
24 New Hampshire, New Mexico, New York, North Da-
25 kota, Texas, Vermont, and Washington.

1 “(2) *PROGRAM.*—*The term ‘program’ means the*
2 *border planning, operations, technology, and capacity*
3 *program established under subsection (b).*

4 “(b) *ESTABLISHMENT AND PURPOSE.*—*The Secretary*
5 *shall establish and carry out a border planning, operations,*
6 *technology, and capacity improvement program to support*
7 *coordination and improvement in bi-national transpor-*
8 *tation planning, operations, efficiency, information ex-*
9 *change, safety, and security at the international borders of*
10 *the United States with Canada and Mexico.*

11 “(c) *ELIGIBLE ACTIVITIES.*—

12 “(1) *IN GENERAL.*—*The Secretary shall make al-*
13 *locations under the program for projects to carry out*
14 *eligible activities described in paragraph (2) at or*
15 *near international land borders in border States.*

16 “(2) *ELIGIBLE ACTIVITIES.*—*A border State may*
17 *obligate funds apportioned to the border State under*
18 *this section for—*

19 “(A) *highway and multimodal planning or*
20 *environmental studies;*

21 “(B) *cross-border port of entry and safety*
22 *inspection improvements, including operational*
23 *enhancements and technology applications;*

24 “(C) *technology and information exchange*
25 *activities; and*

1 “(D) right-of-way acquisition, design, and
2 construction, as needed—

3 “(i) to implement the enhancements or
4 applications described in subparagraphs
5 (B) and (C);

6 “(ii) to decrease air pollution emis-
7 sions from vehicles or inspection facilities at
8 border crossings; or

9 “(iii) to increase highway capacity at
10 or near international borders.

11 “(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

12 “(1) IN GENERAL.—Each project funded under
13 the program shall be carried out in accordance with
14 the continuing, cooperative, and comprehensive plan-
15 ning processes required by sections 134 and 135.

16 “(2) REGIONALLY SIGNIFICANT PROJECTS.—To
17 be funded under the program, a regionally significant
18 project shall be included on the applicable transpor-
19 tation plan and program required by sections 134
20 and 135.

21 “(e) PROGRAM PRIORITIES.—Border States shall give
22 priority to projects that emphasize—

23 “(1) multimodal planning;

24 “(2) improvements in infrastructure; and

25 “(3) operational improvements that—

1 “(A) increase safety, security, freight capac-
2 ity, or highway access to rail, marine, and air
3 services; and

4 “(B) enhance the environment.

5 “(f) MANDATORY PROGRAM.—

6 “(1) IN GENERAL.—For each fiscal year, the Sec-
7 retary shall allocate among border States, in accord-
8 ance with the formula described in paragraph (2),
9 funds to be used in accordance with subsection (d).

10 “(2) FORMULA.—Subject to paragraph (3), the
11 amount allocated to a border State under this para-
12 graph shall be determined by the Secretary, as fol-
13 lows:

14 “(A) 25 percent in the ratio that—

15 “(i) the average annual weight of all
16 cargo entering the border State by commer-
17 cial vehicle across the international border
18 with Canada or Mexico, as the case may be;
19 bears to

20 “(ii) the average annual weight of all
21 cargo entering all border States by commer-
22 cial vehicle across the international borders
23 with Canada and Mexico.

24 “(B) 25 percent in the ratio that—

1 “(i) the average trade value of all
2 cargo imported into the border State and
3 all cargo exported from the border State by
4 commercial vehicle across the international
5 border with Canada or Mexico, as the case
6 may be; bears to

7 “(ii) the average trade value of all
8 cargo imported into all border States and
9 all cargo exported from all border States by
10 commercial vehicle across the international
11 borders with Canada and Mexico.

12 “(C) 25 percent in the ratio that—

13 “(i) the number of commercial vehicles
14 annually entering the border State across
15 the international border with Canada or
16 Mexico, as the case may be; bears to

17 “(ii) the number of all commercial ve-
18 hicles annually entering all border States
19 across the international borders with Can-
20 ada and Mexico.

21 “(D) 25 percent in the ratio that—

22 “(i) the number of passenger vehicles
23 annually entering the border State across
24 the international border with Canada or
25 Mexico, as the case may be; bears to

1 “(ii) the number of all passenger vehi-
2 cles annually entering all border States
3 across the international borders with Can-
4 ada and Mexico.

5 “(3) DATA SOURCE.—

6 “(A) IN GENERAL.—The data used by the
7 Secretary in making allocations under this sub-
8 section shall be based on the Bureau of Trans-
9 portation Statistics Transborder Surface Freight
10 Dataset (or other similar database).

11 “(B) BASIS OF CALCULATION.—All formula
12 calculations shall be made using the average val-
13 ues for the most recent 5-year period for which
14 data are available.

15 “(4) MINIMUM ALLOCATION.—Notwithstanding
16 paragraph (2), for each fiscal year, each border State
17 shall receive at least $\frac{1}{2}$ of 1 percent of the funds made
18 available for allocation under this paragraph for the
19 fiscal year.

20 “(g) FEDERAL SHARE.—Except as provided in section
21 120, the Federal share of the cost of a project carried out
22 under the program shall be 80 percent.

23 “(h) OBLIGATION.—Funds made available under sec-
24 tion 1101(11) of the Safe, Accountable, Flexible, and Effi-
25 cient Transportation Equity Act of 2004 to carry out the

1 *program shall be available for obligation in the same man-*
2 *ner as if the funds were apportioned under this chapter.*

3 “(i) *INFORMATION EXCHANGE.*—*No individual project*
4 *the scope of work of which is limited to information ex-*
5 *change shall receive an allocation under the program in an*
6 *amount that exceeds \$500,000 for any fiscal year.*

7 “(j) *PROJECTS IN CANADA OR MEXICO.*—*A project in*
8 *Canada or Mexico, proposed by a border State to directly*
9 *and predominantly facilitate cross-border vehicle and com-*
10 *mercial cargo movements at an international gateway or*
11 *port of entry into the border region of the State, may be*
12 *constructed using funds made available under the program*
13 *if, before obligation of those funds, Canada or Mexico, or*
14 *the political subdivision of Canada or Mexico that is re-*
15 *sponsible for the operation of the facility to be constructed,*
16 *provides assurances satisfactory to the Secretary that any*
17 *facility constructed under this subsection will be—*

18 “(1) *constructed in accordance with standards*
19 *equivalent to applicable standards in the United*
20 *States; and*

21 “(2) *properly maintained and used over the use-*
22 *ful life of the facility for the purpose for which the*
23 *Secretary allocated funds to the project.*

24 “(k) *TRANSFER OF FUNDS TO THE GENERAL SERV-*
25 *ICES ADMINISTRATION.*—

1 “(1) *STATE FUNDS.*—*At the request of a border*
2 *State, funds made available under the program may*
3 *be transferred to the General Services Administration*
4 *for the purpose of funding 1 or more specific projects*
5 *if—*

6 “(A) *the Secretary determines, after con-*
7 *sultation with the State transportation depart-*
8 *ment of the border State, that the General Serv-*
9 *ices Administration should carry out the project;*
10 *and*

11 “(B) *the General Services Administration*
12 *agrees to accept the transfer of, and to admin-*
13 *ister, those funds.*

14 “(2) *NON-FEDERAL SHARE.*—

15 “(A) *IN GENERAL.*—*A border State that*
16 *makes a request under paragraph (1) shall pro-*
17 *vide directly to the General Services Administra-*
18 *tion, for each project covered by the request, the*
19 *non-Federal share of the cost of each project de-*
20 *scribed in subsection (f).*

21 “(B) *NO AUGMENTATION OF APPROPRIA-*
22 *TIONS.*—*Funds provided by a border State under*
23 *subparagraph (A)—*

24 “(i) *shall not be considered to be an*
25 *augmentation of the appropriations made*

1 *available to the General Services Adminis-*
2 *tration; and*

3 “(ii) *shall be—*

4 “(I) *administered in accordance*
5 *with the procedures of the General*
6 *Services Administration; but*

7 “(II) *available for obligation in*
8 *the same manner as if the funds were*
9 *apportioned under this chapter.*

10 “(C) *OBLIGATION AUTHORITY.—Obligation*
11 *authority shall be transferred to the General*
12 *Services Administration in the same manner*
13 *and amount as the funds provided for projects*
14 *under subparagraph (A).*

15 “(3) *DIRECT TRANSFER OF AUTHORIZED*
16 *FUNDS.—*

17 “(A) *IN GENERAL.—In addition to alloca-*
18 *tions to States and metropolitan planning orga-*
19 *nizations under subsection (c), the Secretary*
20 *may transfer funds made available to carry out*
21 *this section to the General Services Administra-*
22 *tion for construction of transportation infra-*
23 *structure projects at or near the border in border*
24 *States, if—*

1 “(i) the Secretary determines that the
2 transfer is necessary to effectively carry out
3 the purposes of this program; and

4 “(ii) the General Services Administra-
5 tion agrees to accept the transfer of, and to
6 administer, those funds.

7 “(B) NO AUGMENTATION OF APPROPRIA-
8 TIONS.—Funds transferred by the Secretary
9 under subparagraph (A)—

10 “(i) shall not be considered to be an
11 augmentation of the appropriations made
12 available to the General Services Adminis-
13 tration; and

14 “(ii) shall be—

15 “(I) administered in accordance
16 with the procedures of the General
17 Services Administration; but

18 “(II) available for obligation in
19 the same manner as if the funds were
20 apportioned under this chapter.

21 “(C) OBLIGATION AUTHORITY.—Obligation
22 authority shall be transferred to the General
23 Services Administration in the same manner
24 and amount as the funds transferred under sub-
25 paragraph (A).”.

1 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 2 *chapter I of chapter 1 of title 23, United States Code (as*
 3 *amended by section 1809(b)), is amended by adding at the*
 4 *end the following:*

“172. Border planning, operations, and technology program.”.

5 **SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.**

6 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 7 *23, United States Code (as amended by section 1810(a)),*
 8 *is amended by adding at the end the following:*

9 **“§ 173. Puerto Rico highway program**

10 “(a) *IN GENERAL.*—*The Secretary shall allocate funds*
 11 *authorized by section 1101(15) of the Safe, Accountable,*
 12 *Flexible, and Efficient Transportation Equity Act of 2004*
 13 *for each of fiscal years 2004 through 2009 to the Common-*
 14 *wealth of Puerto Rico to carry out a highway program in*
 15 *the Commonwealth.*

16 “(b) *APPLICABILITY OF TITLE.*—

17 “(1) *IN GENERAL.*—*Amounts made available by*
 18 *section 1101(15) of the Safe, Accountable, Flexible,*
 19 *and Efficient Transportation Equity Act of 2004*
 20 *shall be available for obligation in the same manner*
 21 *as if such funds were apportioned under this chapter.*

22 “(2) *LIMITATION ON OBLIGATIONS.*—*The*
 23 *amounts shall be subject to any limitation on obliga-*
 24 *tions for Federal-aid highway and highway safety*
 25 *construction programs.*

1 “(c) *TREATMENT OF FUNDS.*—Amounts made avail-
2 able to carry out this section for a fiscal year shall be ad-
3 ministered as follows:

4 “(1) *APPORTIONMENT.*—For the purpose of im-
5 posing any penalty under this title or title 49, the
6 amounts shall be treated as being apportioned to
7 Puerto Rico under sections 104(b) and 144, for each
8 program funded under those sections in an amount
9 determined by multiplying—

10 “(A) the aggregate of the amounts for the
11 fiscal year; by

12 “(B) the ratio that—

13 “(i) the amount of funds apportioned
14 to Puerto Rico for each such program for
15 fiscal year 1997; bears to

16 “(ii) the total amount of funds appor-
17 tioned to Puerto Rico for all such programs
18 for fiscal year 1997.

19 “(2) *PENALTY.*—The amounts treated as being
20 apportioned to Puerto Rico under each section re-
21 ferred to in paragraph (1) shall be deemed to be re-
22 quired to be apportioned to Puerto Rico under that
23 section for purposes of the imposition of any penalty
24 under this title and title 49.

1 “(3) *EFFECT ON ALLOCATIONS AND APPORTION-*
 2 *MENTS.—Subject to paragraph (2), nothing in this*
 3 *section affects any allocation under section 105 and*
 4 *any apportionment under sections 104 and 144.”.*

5 (b) *CONFORMING AMENDMENT.—The analysis for sub-*
 6 *chapter I of chapter 1 of title 23, United States Code (as*
 7 *amended by section 1810(b)), is amended by adding at the*
 8 *end the following:*

“173. Puerto Rico highway program.”.

9 **SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESER-**
 10 **VATION.**

11 (a) *IN GENERAL.—Subchapter I of chapter 1 of title*
 12 *23, United States Code (as amended by section 1811(a)),*
 13 *is amended by adding at the end the following:*

14 **“§ 174. National historic covered bridge preservation**

15 “(a) *DEFINITION OF HISTORIC COVERED BRIDGE.—*
 16 *In this section, the term ‘historic covered bridge’ means a*
 17 *covered bridge that is listed or eligible for listing on the*
 18 *National Register of Historic Places.*

19 “(b) *HISTORIC COVERED BRIDGE PRESERVATION.—*
 20 *Subject to the availability of appropriations, the Secretary*
 21 *shall—*

22 “(1) *collect and disseminate information on his-*
 23 *toric covered bridges;*

1 “(2) *conduct educational programs relating to*
2 *the history and construction techniques of historic*
3 *covered bridges;*

4 “(3) *conduct research on the history of historic*
5 *covered bridges; and*

6 “(4) *conduct research on, and study techniques*
7 *for, protecting historic covered bridges from rot, fire,*
8 *natural disasters, or weight-related damage.*

9 “(c) *GRANTS.—*

10 “(1) *IN GENERAL.—Subject to the availability of*
11 *appropriations, the Secretary shall make a grant to*
12 *a State that submits an application to the Secretary*
13 *that demonstrates a need for assistance in carrying*
14 *out 1 or more historic covered bridge projects de-*
15 *scribed in paragraph (2).*

16 “(2) *ELIGIBLE PROJECTS.—A grant under para-*
17 *graph (1) may be made for a project—*

18 “(A) *to rehabilitate or repair a historic cov-*
19 *ered bridge; or*

20 “(B) *to preserve a historic covered bridge,*
21 *including through—*

22 “(i) *installation of a fire protection*
23 *system, including a fireproofing or fire de-*
24 *tection system and sprinklers;*

1 “(ii) installation of a system to pre-
2 vent vandalism and arson; or

3 “(iii) relocation of a bridge to a pres-
4 ervation site.

5 “(3) *AUTHENTICITY REQUIREMENTS.*—A grant
6 under paragraph (1) may be made for a project only
7 if—

8 “(A) to the maximum extent practicable, the
9 project—

10 “(i) is carried out in the most histori-
11 cally appropriate manner; and

12 “(ii) preserves the existing structure of
13 the historic covered bridge; and

14 “(B) the project provides for the replace-
15 ment of wooden components with wooden compo-
16 nents, unless the use of wood is impracticable for
17 safety reasons.

18 “(4) *FEDERAL SHARE.*—Except as provided in
19 section 120, the Federal share of the cost of a project
20 carried out with a grant under this subsection shall
21 be 80 percent.

22 “(d) *FUNDING.*—There is authorized to be appro-
23 priated to carry out this section \$14,000,000 for each of
24 fiscal years 2004 through 2009, to remain available until
25 expended.”.

1 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 2 *chapter I of chapter 1 of title 23, United States Code (as*
 3 *amended by section 1811(b)), is amended by adding at the*
 4 *end the following:*

“174. National historic covered bridge preservation.”.

5 **SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYS-**
 6 **TEM PRESERVATION PROGRAM.**

7 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 8 *23, United States Code (as amended by section 1812(a)),*
 9 *is amended by adding at the end the following:*

10 **“§175. Transportation and community and system**
 11 **preservation program**

12 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
 13 *a comprehensive program to facilitate the planning, devel-*
 14 *opment, and implementation of strategies by States, metro-*
 15 *politan planning organizations, federally-recognized Indian*
 16 *tribes, and local governments to integrate transportation,*
 17 *community, and system preservation plans and practices*
 18 *that address the goals described in subsection (b).*

19 “(b) *GOALS.*—*The goals of the program are to—*

20 “(1) *improve the efficiency of the transportation*
 21 *system in the United States;*

22 “(2) *reduce the impacts of transportation on the*
 23 *environment;*

24 “(3) *reduce the need for costly future investments*
 25 *in public infrastructure;*

1 “(4) provide efficient access to jobs, services, and
2 centers of trade; and

3 “(5) examine development patterns, and to iden-
4 tify strategies, to encourage private sector develop-
5 ment patterns that achieve the goals identified in
6 paragraphs (1) through (4).

7 “(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

8 “(1) IN GENERAL.—The Secretary shall allocate
9 funds made available to carry out this subsection to
10 States, metropolitan planning organizations, and
11 local governments to carry out projects to address
12 transportation efficiency and community and system
13 preservation.

14 “(2) CRITERIA.—In allocating funds made avail-
15 able to carry out this subsection, the Secretary shall
16 give priority to applicants that—

17 “(A) have instituted preservation or devel-
18 opment plans and programs that—

19 “(i) meet the requirements of this title
20 and chapter 53 of title 49, United States
21 Code; and

22 “(ii)(I) are coordinated with State and
23 local adopted preservation or development
24 plans;

1 “(II) are intended to promote cost-ef-
2 fective and strategic investments in trans-
3 portation infrastructure that minimize ad-
4 verse impacts on the environment; or

5 “(III) are intended to promote innova-
6 tive private sector strategies.

7 “(B) have instituted other policies to inte-
8 grate transportation and community and system
9 preservation practices, such as—

10 “(i) spending policies that direct funds
11 to high-growth areas;

12 “(ii) urban growth boundaries to guide
13 metropolitan expansion;

14 “(iii) ‘green corridors’ programs that
15 provide access to major highway corridors
16 for areas targeted for efficient and compact
17 development; or

18 “(iv) other similar programs or poli-
19 cies as determined by the Secretary;

20 “(C) have preservation or development poli-
21 cies that include a mechanism for reducing po-
22 tential impacts of transportation activities on
23 the environment;

1 “(D) examine ways to encourage private
2 sector investments that address the purposes of
3 this section; and

4 “(E) propose projects for funding that ad-
5 dress the purposes described in subsection (b)(2).

6 “(3) *EQUITABLE DISTRIBUTION.*—In allocating
7 funds to carry out this subsection, the Secretary shall
8 ensure the equitable distribution of funds to a diver-
9 sity of populations and geographic regions.

10 “(4) *USE OF ALLOCATED FUNDS.*—

11 “(A) *IN GENERAL.*—An allocation of funds
12 made available to carry out this subsection shall
13 be used by the recipient to implement the
14 projects proposed in the application to the Sec-
15 retary.

16 “(B) *TYPES OF PROJECTS.*—The allocation
17 of funds shall be available for obligation for—

18 “(i) any project eligible for funding
19 under this title or chapter 53 of title 49,
20 United States Code; or

21 “(ii) any other activity relating to
22 transportation and community and system
23 preservation that the Secretary determines
24 to be appropriate, including corridor pres-

1 *ervation activities that are necessary to im-*
2 *plement—*

3 *“(I) transit-oriented development*
4 *plans;*

5 *“(II) traffic calming measures; or*

6 *“(III) other coordinated transpor-*
7 *tation and community and system*
8 *preservation practices.*

9 *“(d) FUNDING.—*

10 *“(1) IN GENERAL.—There is authorized to be ap-*
11 *propriated from the Highway Trust Fund (other than*
12 *the Mass Transit Account) to carry out this section*
13 *\$50,000,000 for each of fiscal years 2004 through*
14 *2009.*

15 *“(2) CONTRACT AUTHORITY.—Funds authorized*
16 *under this subsection shall be available for obligation*
17 *in the same manner as if the funds were apportioned*
18 *under this chapter.”.*

19 *(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23,*
20 *United States Code (as amended by section 1701(a)), is*
21 *amended by adding at the end the following:*

22 *“(18) Transportation and community system*
23 *preservation to facilitate the planning, development,*
24 *and implementation of strategies of metropolitan*
25 *planning organizations and local governments to in-*

1 *tegrate transportation, community, and system pres-*
2 *ervation plans and practices that address the fol-*
3 *lowing:*

4 *“(A) Improvement of the efficiency of the*
5 *transportation system in the United States.*

6 *“(B) Reduction of the impacts of transpor-*
7 *tation on the environment.*

8 *“(C) Reduction of the need for costly future*
9 *investments in public infrastructure.*

10 *“(D) Provision of efficient access to jobs,*
11 *services, and centers of trade.*

12 *“(E) Examination of development patterns,*
13 *and identification of strategies to encourage pri-*
14 *vate sector development patterns, that achieve the*
15 *goals identified in subparagraphs (A) through*
16 *(D).*

17 *“(19) Projects relating to intersections, including*
18 *intersections—*

19 *“(A) that—*

20 *“(i) have disproportionately high acci-*
21 *dent rates;*

22 *“(ii) have high levels of congestion, as*
23 *evidenced by—*

24 *“(I) interrupted traffic flow at the*
25 *intersection; and*

1 “(II) a level of service rating,
 2 issued by the Transportation Research
 3 Board of the National Academy of
 4 Sciences in accordance with the High-
 5 way Capacity Manual, that is not bet-
 6 ter than ‘F’ during peak travel hours;
 7 and

8 “(iii) are directly connected to or lo-
 9 cated on a Federal-aid highway; and

10 “(B) improvements that are approved in the
 11 regional plan of the appropriate local metropoli-
 12 tan planning organization.”.

13 (c) *CONFORMING AMENDMENT.*—The analysis for sub-
 14 chapter I of chapter 1 of title 23, United States Code (as
 15 amended by section 1812(b)), is amended by adding at the
 16 end the following:

 “175. Transportation and community and system preservation pilot program.”.

17 **SEC. 1814. PARKING PILOT PROGRAMS.**

18 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
 19 23, United States Code (as amended by section 1813(a)),
 20 is amended by adding at the end the following:

21 **“§ 176. Parking pilot programs**

22 “(a) *COMMERCIAL TRUCK PARKING PILOT PRO-*
 23 *GRAM.*—

24 “(1) *ESTABLISHMENT.*—In cooperation with ap-
 25 propriate State, regional, and local governments, the

1 *Secretary shall establish a pilot program to address*
2 *the shortage of long-term parking for drivers of com-*
3 *mercial motor vehicles on the National Highway Sys-*
4 *tem.*

5 “(2) *ALLOCATION OF FUNDS.—*

6 “(A) *IN GENERAL.—The Secretary shall al-*
7 *locate funds made available under this subsection*
8 *to States, metropolitan planning organizations,*
9 *and local governments.*

10 “(B) *CRITERIA.—In allocating funds under*
11 *this subsection, the Secretary shall give priority*
12 *to an applicant that—*

13 “(i) *demonstrates a severe shortage of*
14 *commercial vehicle parking capacity on the*
15 *corridor to be addressed;*

16 “(ii) *consults with affected State and*
17 *local governments, community groups, pri-*
18 *vate providers of commercial vehicle park-*
19 *ing, and motorist and trucking organiza-*
20 *tions; and*

21 “(iii) *demonstrates that the project*
22 *proposed by the applicant is likely to have*
23 *a positive effect on highway safety, traffic*
24 *congestion, or air quality.*

25 “(3) *USE OF ALLOCATED FUNDS.—*

1 “(A) *IN GENERAL.*—A recipient of funds al-
2 located under this subsection shall use the funds
3 to carry out the project proposed in the applica-
4 tion submitted by the recipient to the Secretary.

5 “(B) *TYPES OF PROJECTS.*—Funds under
6 this subsection shall be available for obligation
7 for projects that serve the National Highway
8 System, including—

9 “(i) construction of safety rest areas
10 that include parking for commercial motor
11 vehicles;

12 “(ii) construction of commercial motor
13 vehicle parking facilities that are adjacent
14 to commercial truck stops and travel plazas;

15 “(iii) costs associated with the opening
16 of facilities (including inspection and weigh
17 stations and park-and-ride facilities) to
18 provide commercial motor vehicle parking;

19 “(iv) projects that promote awareness
20 of the availability of public or private com-
21 mercial motor vehicle parking on the Na-
22 tional Highway System, including parking
23 in connection with intelligent transpor-
24 tation systems and other systems;

1 “(v) construction of turnouts along the
2 *National Highway System for commercial*
3 *motor vehicles;*

4 “(vi) capital improvements to public
5 *commercial motor vehicle truck parking fa-*
6 *cilities closed on a seasonal basis in order*
7 *to allow the facilities to remain open year-*
8 *around; and*

9 “(vii) improvements to the geometric
10 *design at interchanges on the National*
11 *Highway System to improve access to com-*
12 *mmercial motor vehicle parking facilities.*

13 “(4) *REPORT.*—Not later than 5 years after the
14 *date of enactment of this section, the Secretary shall*
15 *submit to Congress a report on the results of the pilot*
16 *program carried out under this subsection.*

17 “(5) *FEDERAL SHARE.*—The Federal share of the
18 *cost of a project carried out under this subsection*
19 *shall be consistent with section 120.*

20 “(6) *FUNDING.*—

21 “(A) *IN GENERAL.*—There is authorized to
22 *be appropriated from the Highway Trust Fund*
23 *(other than the Mass Transit Account) to carry*
24 *out this subsection \$10,000,000 for each of fiscal*
25 *years 2005 through 2009.*

1 “(B) *CONTRACT AUTHORITY.*—*Funds au-*
2 *thorized under this paragraph shall be available*
3 *for obligation in the same manner as if the funds*
4 *were apportioned under this chapter.*

5 “(b) *CORRIDOR AND FRINGE PARKING PILOT PRO-*
6 *GRAM.*—

7 “(1) *ESTABLISHMENT.*—

8 “(A) *IN GENERAL.*—*In cooperation with*
9 *appropriate State, regional, and local govern-*
10 *ments, the Secretary shall carry out a pilot pro-*
11 *gram to provide corridor and fringe parking fa-*
12 *cilities.*

13 “(B) *PRIMARY FUNCTION.*—*The primary*
14 *function of a corridor and fringe parking facility*
15 *funded under this subsection shall be to provide*
16 *parking capacity to support car pooling, van*
17 *pooling, ride sharing, commuting, and high oc-*
18 *cupancy vehicle travel.*

19 “(C) *OVERNIGHT PARKING.*—*A State may*
20 *permit a facility described in subparagraph (B)*
21 *to be used for the overnight parking of commer-*
22 *cial vehicles if the use does not foreclose or un-*
23 *duly limit the primary function of the facility*
24 *described in subparagraph (B).*

25 “(2) *ALLOCATION OF FUNDS.*—

1 “(A) *IN GENERAL.*—*The Secretary shall al-*
2 *locate funds made available to carry out this*
3 *subsection to States.*

4 “(B) *CRITERIA.*—*In allocating funds under*
5 *this subsection, the Secretary shall give priority*
6 *to a State that—*

7 “(i) *demonstrates demand for corridor*
8 *and fringe parking on the corridor to be ad-*
9 *dressed;*

10 “(ii) *consults with affected metropoli-*
11 *tan planning organizations, local govern-*
12 *ments, community groups, and providers of*
13 *corridor and fringe parking; and*

14 “(iii) *demonstrates that the project*
15 *proposed by the State is likely to have a*
16 *positive effect on ride sharing, traffic con-*
17 *gestion, or air quality.*

18 “(3) *USE OF ALLOCATED FUNDS.*—

19 “(A) *IN GENERAL.*—*A recipient of funds al-*
20 *located under this subsection shall use the funds*
21 *to carry out the project proposed in the applica-*
22 *tion submitted by the recipient to the Secretary.*

23 “(B) *TYPES OF PROJECTS.*—*Funds under*
24 *this subsection shall be available for obligation*

1 *for projects that serve the Federal-aid system, in-*
2 *cluding—*

3 “(i) *construction of corridor and fringe*
4 *parking facilities;*

5 “(ii) *costs associated with the opening*
6 *of facilities;*

7 “(iii) *projects that promote awareness*
8 *of the availability of corridor and fringe*
9 *parking through the use of signage and*
10 *other means;*

11 “(iv) *capital improvements to corridor*
12 *and fringe parking facilities closed on a*
13 *seasonal basis in order to allow the facilities*
14 *to remain open year-around; and*

15 “(v) *improvements to the geometric de-*
16 *sign on adjoining roadways to facilitate ac-*
17 *cess to, and egress from, corridor and fringe*
18 *parking facilities.*

19 “(4) *REPORT.—Not later than 5 years after the*
20 *date of enactment of this section, the Secretary shall*
21 *submit to Congress a report on the results of the pilot*
22 *program carried out under this subsection.*

23 “(5) *FEDERAL SHARE.—The Federal share of the*
24 *cost of a project carried out under this subsection*
25 *shall be consistent with section 120.*

1 “(6) *FUNDING.*—

2 “(A) *IN GENERAL.*—*There is authorized to*
3 *be appropriated from the Highway Trust Fund*
4 *(other than the Mass Transit Account) to carry*
5 *out this subsection \$10,000,000 for each of fiscal*
6 *years 2005 through 2009.*

7 “(B) *CONTRACT AUTHORITY.*—*Funds au-*
8 *thorized under this paragraph shall be available*
9 *for obligation in the same manner as if the funds*
10 *were apportioned under this chapter.”.*

11 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
12 *chapter I of chapter I of title 23, United States Code (as*
13 *amended by section 1813(c)), is amended by adding at the*
14 *end the following:*

 “176. *Parking pilot programs.*”.

15 **SEC. 1815. INTERSTATE OASIS PROGRAM.**

16 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
17 *23, United States Code (as amended by section 1814(a)),*
18 *is amended by adding at the end the following:*

19 **“§ 177. Interstate oasis program**

20 “(a) *IN GENERAL.*—*Not later than 180 days after the*
21 *date of enactment of this section, in consultation with the*
22 *States and other interested parties, the Secretary shall—*

23 “(1) *establish an Interstate oasis program; and*

24 “(2) *develop standards for designating, as an*
25 *Interstate oasis, a facility that—*

1 “(A) offers—

2 “(i) products and services to the pub-
3 lic;

4 “(ii) 24-hour access to restrooms; and

5 “(iii) parking for automobiles and
6 heavy trucks; and

7 “(B) meets other standards established by
8 the Secretary.

9 “(b) STANDARDS FOR DESIGNATION.—The standards
10 for designation under subsection (a) shall include standards
11 relating to—

12 “(1) the appearance of a facility; and

13 “(2) the proximity of the facility to the Inter-
14 state System.

15 “(c) ELIGIBILITY FOR DESIGNATION.—If a State elects
16 to participate in the interstate oasis program, any facility
17 meeting the standards established by the Secretary shall be
18 eligible for designation under this section.

19 “(d) LOGO.—The Secretary shall design a logo to be
20 displayed by a facility designated under this section.”.

21 (b) CONFORMING AMENDMENT.—The analysis for sub-
22 chapter I of chapter I of title 23, United States Code (as
23 amended by section 1814(b)), is amended by adding at the
24 end the following:

“177. Interstate oasis program.”.

1 **SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREE-**
2 **MENTS.**

3 *Section 204 of title 23, United States Code (as amend-*
4 *ed by section 1806(f)(4)), is amended by adding at the end*
5 *the following:*

6 “(n) *TRIBAL-STATE ROAD MAINTENANCE AGREE-*
7 *MENTS.—*

8 “(1) *IN GENERAL.—Notwithstanding any other*
9 *provision of law, regulation, policy, or guideline, an*
10 *Indian tribe and a State may enter into a road*
11 *maintenance agreement under which an Indian tribe*
12 *assumes the responsibilities of the State for—*

13 “(A) *Indian reservation roads; and*

14 “(B) *roads providing access to Indian res-*
15 *ervation roads.*

16 “(2) *TRIBAL-STATE AGREEMENTS.—Agreements*
17 *entered into under paragraph (1)—*

18 “(A) *shall be negotiated between the State*
19 *and the Indian tribe; and*

20 “(B) *shall not require the approval of the*
21 *Secretary.*

22 “(3) *ANNUAL REPORT.—Effective beginning with*
23 *fiscal year 2004, the Secretary shall prepare and sub-*
24 *mit to Congress an annual report that identifies—*

25 “(A) *the Indian tribes and States that have*
26 *entered into agreements under paragraph (1);*

1 “(B) the number of miles of roads for which
2 Indian tribes have assumed maintenance respon-
3 sibilities; and

4 “(C) the amount of funding transferred to
5 Indian tribes for the fiscal year under agree-
6 ments entered into under paragraph (1).”.

7 **SEC. 1817. NATIONAL FOREST SYSTEM ROADS.**

8 Section 205 of title 23, United States Code, is amended
9 by adding at the end the following:

10 “(e) Of the amounts made available for National For-
11 est System roads, \$15,000,000 for each fiscal year shall be
12 used by the Secretary of Agriculture to pay the costs of fa-
13 cilitating the passage of aquatic species beneath roads in
14 the National Forest System, including the costs of con-
15 structing, maintaining, replacing, or removing culverts and
16 bridges, as appropriate.”.

17 **SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.**

18 (a) *IN GENERAL.*—Chapter 2 of title 23, United States
19 Code, is amended by striking section 215 and inserting the
20 following:

21 **“§215. Territorial highway program**

22 “(a) *DEFINITIONS.*—In this section:

23 “(1) *PROGRAM.*—The term ‘program’ means the
24 territorial highway program established under sub-
25 section (b).

1 “(2) *TERRITORY.*—*The term ‘territory’ means*
2 *the any of the following territories of the United*
3 *States:*

4 “(A) *American Samoa.*

5 “(B) *The Commonwealth of the Northern*
6 *Mariana Islands.*

7 “(C) *Guam.*

8 “(D) *The United States Virgin Islands.*

9 “(b) *PROGRAM.*—

10 “(1) *IN GENERAL.*—*Recognizing the mutual ben-*
11 *efits that will accrue to the territories and the United*
12 *States from the improvement of highways in the terri-*
13 *tories, the Secretary may carry out a program to as-*
14 *ist each territorial government in the construction*
15 *and improvement of a system of arterial and collector*
16 *highways, and necessary inter-island connectors, that*
17 *is—*

18 “(A) *designated by the Governor or chief ex-*
19 *ecutive officer of each territory; and*

20 “(B) *approved by the Secretary.*

21 “(2) *FEDERAL SHARE.*—*The Secretary shall pro-*
22 *vide Federal financial assistance to territories under*
23 *this section in accordance with section 120(h).*

24 “(c) *TECHNICAL ASSISTANCE.*—

1 “(1) *IN GENERAL.*—*To continue a long-range*
2 *highway development program, the Secretary may*
3 *provide technical assistance to the governments of the*
4 *territories to enable the territories to, on a continuing*
5 *basis—*

6 “(A) *engage in highway planning;*

7 “(B) *conduct environmental evaluations;*

8 “(C) *administer right-of-way acquisition*
9 *and relocation assistance programs; and*

10 “(D) *design, construct, operate, and main-*
11 *tain a system of arterial and collector highways,*
12 *including necessary inter-island connectors.*

13 “(2) *FORM AND TERMS OF ASSISTANCE.*—*Tech-*
14 *nical assistance provided under paragraph (1), and*
15 *the terms for the sharing of information among terri-*
16 *tories receiving the technical assistance, shall be in-*
17 *cluded in the agreement required by subsection (e).*

18 “(d) *NONAPPLICABILITY OF CERTAIN PROVISIONS.*—

19 “(1) *IN GENERAL.*—*Except to the extent that*
20 *provisions of chapter 1 are determined by the Sec-*
21 *retary to be inconsistent with the needs of the terri-*
22 *tories and the intent of the program, chapter 1 (other*
23 *than provisions of chapter 1 relating to the appor-*
24 *tionment and allocation of funds) shall apply to*
25 *funds authorized to be appropriated for the program.*

1 “(2) *APPLICABLE PROVISIONS.*—*The specific sec-*
2 *tions of chapter 1 that are applicable to each terri-*
3 *tory, and the extent of the applicability of those sec-*
4 *tion, shall be identified in the agreement required by*
5 *subsection (e).*

6 “(e) *AGREEMENT.*—

7 “(1) *IN GENERAL.*—*Except as provided in para-*
8 *graph (3), none of the funds made available for the*
9 *program shall be available for obligation or expendi-*
10 *ture with respect to any territory until the Governor*
11 *or chief executive officer of the territory enters into a*
12 *new agreement with the Secretary (which new agree-*
13 *ment shall be entered into not later than 1 year after*
14 *the date of enactment of the Safe, Accountable, Flexi-*
15 *ble, and Efficient Transportation Equity Act of*
16 *2004), providing that the government of the territory*
17 *shall—*

18 “(A) *implement the program in accordance*
19 *with applicable provisions of chapter 1 and sub-*
20 *section (d);*

21 “(B) *design and construct a system of arte-*
22 *rial and collector highways, including necessary*
23 *inter-island connectors, in accordance with*
24 *standards that are—*

25 “(i) *appropriate for each territory; and*

1 “(ii) approved by the Secretary;

2 “(C) provide for the maintenance of facili-
3 ties constructed or operated under this section in
4 a condition to adequately serve the needs of
5 present and future traffic; and

6 “(D) implement standards for traffic oper-
7 ations and uniform traffic control devices that
8 are approved by the Secretary.

9 “(2) *TECHNICAL ASSISTANCE.*—The new agree-
10 ment required by paragraph (1) shall—

11 “(A) specify the kind of technical assistance
12 to be provided under the program;

13 “(B) include appropriate provisions regard-
14 ing information sharing among the territories;
15 and

16 “(C) delineate the oversight role and respon-
17 sibilities of the territories and the Secretary.

18 “(3) *REVIEW AND REVISION OF AGREEMENT.*—
19 The new agreement entered into under paragraph (1)
20 shall be reevaluated and, as necessary, revised, at
21 least every 2 years.

22 “(4) *EXISTING AGREEMENTS.*—With respect to
23 an agreement between the Secretary and the Governor
24 or chief executive officer of a territory that is in effect
25 as of the date of enactment of the Safe, Accountable,

1 *Flexible, and Efficient Transportation Equity Act of*
2 *2004—*

3 “(A) *the agreement shall continue in force*
4 *until replaced by a new agreement in accordance*
5 *with paragraph (1); and*

6 “(B) *amounts made available for the pro-*
7 *gram under the agreement shall be available for*
8 *obligation or expenditure so long as the agree-*
9 *ment, or a new agreement under paragraph (1),*
10 *is in effect.*

11 “(f) *PERMISSIBLE USES OF FUNDS.—*

12 “(1) *IN GENERAL.—Funds made available for*
13 *the program may be used only for the following*
14 *projects and activities carried out in a territory:*

15 “(A) *Eligible surface transportation pro-*
16 *gram projects described in section 133(b).*

17 “(B) *Cost-effective, preventive maintenance*
18 *consistent with section 116.*

19 “(C) *Ferry boats, terminal facilities, and*
20 *approaches, in accordance with subsections (b)*
21 *and (c) of section 129.*

22 “(D) *Engineering and economic surveys*
23 *and investigations for the planning, and the fi-*
24 *nancing, of future highway programs.*

1 “(E) *Studies of the economy, safety, and*
2 *convenience of highway use.*

3 “(F) *The regulation and equitable taxation*
4 *of highway use.*

5 “(G) *Such research and development as are*
6 *necessary in connection with the planning, de-*
7 *sign, and maintenance of the highway system.*

8 “(2) *PROHIBITION ON USE OF FUNDS FOR ROU-*
9 *TINE MAINTENANCE.—None of the funds made avail-*
10 *able for the program shall be obligated or expended*
11 *for routine maintenance.*

12 “(g) *LOCATION OF PROJECTS.—Territorial highway*
13 *projects (other than those described in paragraphs (1), (3),*
14 *and (4) of section 133(b)) may not be undertaken on roads*
15 *functionally classified as local.”.*

16 (b) *CONFORMING AMENDMENTS.—*

17 (1) *ELIGIBLE PROJECTS.—Section 103(b)(6) of*
18 *title 23, United States Code, is amended by striking*
19 *subparagraph (P) and inserting the following:*

20 “(P) *Projects eligible for assistance under the ter-*
21 *ritorial highway program under section 215.”.*

22 (2) *FUNDING.—Section 104(b)(1)(A) of title 23,*
23 *United States Code, is amended by striking “to the*
24 *Virgin Islands, Guam, American Samoa, and the*
25 *Commonwealth of Northern Mariana Islands” and*

1 *inserting “for the territorial highway program au-*
2 *thorized under section 215”.*

3 (3) *ANALYSIS.—The analysis for chapter 2 of*
4 *title 23, United States Code, is amended by striking*
5 *the item relating to section 215 and inserting the fol-*
6 *lowing:*

“215. Territorial highway program.”.

7 **SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECH-**
8 **NOLOGY DEPLOYMENT PROGRAM.**

9 *Section 322 of title 23, United States Code, is amend-*
10 *ed—*

11 (1) *in subsection (c)—*

12 (A) *by striking “Not later than” and insert-*
13 *ing the following:*

14 “(1) *INITIAL SOLICITATION.—Not later than*”;
15 *and*

16 (B) *by adding at the end the following:*

17 “(2) *ADDITIONAL SOLICITATION.—Not later than*
18 *1 year after the date of enactment of this paragraph,*
19 *the Secretary may solicit additional applications*
20 *from States, or authorities designated by 1 or more*
21 *States, for financial assistance authorized by sub-*
22 *section (b) for planning, design, and construction of*
23 *eligible MAGLEV projects.”;*

1 (2) *in subsection (e), by striking “Prior to solici-*
2 *ting applications, the Secretary” and inserting “The*
3 *Secretary”;*

4 (3) *in subsection (h)—*

5 *(A) in subparagraph (A), by striking clause*
6 *(i) and inserting the following:*

7 *“(i) IN GENERAL.—There is authorized*
8 *to be appropriated from the Highway Trust*
9 *Fund (other than the Mass Transit Ac-*
10 *count) to carry out this section \$15,000,000*
11 *for each of fiscal years 2004 through 2009.”;*
12 *and*

13 *(B) in subparagraph (B), by striking clause*
14 *(i) and inserting the following:*

15 *“(i) IN GENERAL.—There are author-*
16 *ized to be appropriated from the Highway*
17 *Trust Fund (other than the Mass Transit*
18 *Account) to carry out this section—*

19 *“(I) \$375,000,000 for fiscal year*
20 *2004;*

21 *“(II) \$400,000,000 for fiscal year*
22 *2005;*

23 *“(III) \$415,000,000 for fiscal year*
24 *2006;*

1 “(IV) \$425,000,000 for fiscal year
2 2007;

3 “(V) \$435,000,000 for fiscal year
4 2008; and

5 “(VI) \$450,000,000 for fiscal year
6 2009.”; and

7 (4) by striking subsection (i).

8 **SEC. 1820. DONATIONS AND CREDITS.**

9 Section 323 of title 23, United States Code, is amend-
10 ed—

11 (1) in the first sentence of subsection (c), by in-
12 serting “, or a local government from offering to do-
13 nate funds, materials, or services performed by local
14 government employees,” after “services”; and

15 (2) striking subsection (e).

16 **SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.**

17 (a) *GENERAL RULE.*—Except to the extent that the
18 Secretary determines otherwise, not less than 10 percent of
19 the amounts made available for any program under titles
20 I, II, and III of this Act shall be expended with small busi-
21 ness concerns owned and controlled by socially and eco-
22 nomically disadvantaged individuals.

23 (b) *DEFINITIONS.*—In this section:

24 (1) *SMALL BUSINESS CONCERN.*—

1 (A) *IN GENERAL.*—The term “small busi-
2 ness concern” has the meaning given the term
3 under section 3 of the Small Business Act (15
4 U.S.C. 632).

5 (B) *EXCLUSION.*—The term “small business
6 concern” does not include any concern or group
7 of concerns controlled by the same socially and
8 economically disadvantaged individual or indi-
9 viduals that has average annual gross receipts
10 over the preceding 3 fiscal years in excess of
11 \$17,420,000, as adjusted by the Secretary for in-
12 flation.

13 (2) *SOCIALLY AND ECONOMICALLY DISADVAN-*
14 *TAGED INDIVIDUALS.*—The term “socially and eco-
15 nomically disadvantaged individuals” has the mean-
16 ing given the term under section 8(d) of the Small
17 Business Act (15 U.S.C. 637(d)) and relevant subcon-
18 tracting regulations promulgated under that section,
19 except that women shall be presumed to be socially
20 and economically disadvantaged individuals for the
21 purposes of this section.

22 (c) *ANNUAL LISTING OF DISADVANTAGED BUSINESS*
23 *ENTERPRISES.*—Each State shall annually survey and
24 compile a list of the small business concerns referred to in
25 subsection (a) and the location of such concerns in the State

1 *and notify the Secretary, in writing, of the percentage of*
2 *such concerns which are controlled by women, by socially*
3 *and economically disadvantaged individuals (other than*
4 *women), and by individuals who are women and are other-*
5 *wise socially and economically disadvantaged individuals.*

6 *(d) UNIFORM CERTIFICATION.—The Secretary shall es-*
7 *tablish minimum uniform criteria for State governments*
8 *to use in certifying whether a concern qualifies for purposes*
9 *of this section. Such minimum uniform criteria shall in-*
10 *clude on-site visits, personal interviews, licenses, analysis*
11 *of stock ownership, listing of equipment, analysis of bond-*
12 *ing capacity, listing of work completed, resume of principal*
13 *owners, financial capacity, and type of work preferred.*

14 *(e) COMPLIANCE WITH COURT ORDERS.—Nothing in*
15 *this section limits the eligibility of an entity or person to*
16 *receive funds made available under titles I, III, and V of*
17 *this Act, if the entity or person is prevented, in whole or*
18 *in part, from complying with subsection (a) because a Fed-*
19 *eral court issues a final order in which the court finds that*
20 *the requirement of subsection (a), or the program estab-*
21 *lished under subsection (a), is unconstitutional.*

22 **SEC. 1822. EMERGENCY RELIEF.**

23 *Section 125(c)(1) of title 23, United States Code, is*
24 *amended by striking “\$100,000,000” and inserting*
25 *“\$300,000,000”.*

1 **SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACIL-**
2 **ITY ENHANCEMENT PROJECTS.**

3 *Section 133(e)(5) of title 23, United States Code, is*
4 *amended by adding at the end the following:*

5 *“(D) PRIORITY FOR PEDESTRIAN AND BICY-*
6 *CLE FACILITY ENHANCEMENT PROJECTS.—The*
7 *Secretary shall encourage States to give priority*
8 *to pedestrian and bicycle facility enhancement*
9 *projects that include a coordinated physical ac-*
10 *tivity or healthy lifestyles program.”.*

11 **SEC. 1824. THE DELTA REGIONAL AUTHORITY.**

12 *(a) IN GENERAL.—Subchapter I of chapter 1 of title*
13 *23, United States Code (as amended by section 1814(a)),*
14 *is amended by adding at the end the following:*

15 **“§ 178. Delta Region transportation development pro-**
16 **gram**

17 *“(a) IN GENERAL.—The Secretary shall carry out a*
18 *program to—*

19 *“(1) support and encourage multistate transpor-*
20 *tation planning and corridor development;*

21 *“(2) provide for transportation project develop-*
22 *ment;*

23 *“(3) facilitate transportation decisionmaking;*
24 *and*

25 *“(4) support transportation construction.*

1 “(b) *ELIGIBLE RECIPIENTS.*—A State transportation
2 department or metropolitan planning organization may re-
3 ceive and administer funds provided under the program.

4 “(c) *ELIGIBLE ACTIVITIES.*—The Secretary shall make
5 allocations under the program for multistate highway and
6 transit planning, development, and construction projects.

7 “(d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—
8 All activities funded under this program shall be consistent
9 with the continuing, cooperative, and comprehensive plan-
10 ning processes required by section 134 and 135.

11 “(e) *SELECTION CRITERIA.*—The Secretary shall select
12 projects to be carried out under the program based on—

13 “(1) whether the project is located—

14 “(A) in an area that is part of the Delta
15 Regional Authority; and

16 “(B) on the Federal-aid system;

17 “(2) endorsement of the project by the State de-
18 partment of transportation; and

19 “(3) evidence of the ability to complete the
20 project.

21 “(f) *PROGRAM PRIORITIES.*—In administering the
22 program, the Secretary shall—

23 “(1) encourage State and local officials to work
24 together to develop plans for multimodal and multi-
25 jurisdictional transportation decisionmaking; and

1 “(2) give priority to projects that emphasize
2 multimodal planning, including planning for oper-
3 ational improvements that—

4 “(A) increase the mobility of people and
5 goods;

6 “(B) improve the safety of the transpor-
7 tation system with respect to catastrophic—

8 “(i) natural disasters; or

9 “(ii) disasters caused by human activ-
10 ity; and

11 “(C) contribute to the economic vitality of
12 the area in which the project is being carried
13 out.

14 “(g) *FEDERAL SHARE*.—Amounts provided by the
15 Delta Regional Authority to carry out a project under this
16 section shall be applied to the non-Federal share required
17 by section 120.

18 “(h) *AVAILABILITY OF FUNDS*.—Amounts made avail-
19 able to carry out this section shall remain available until
20 expended.”.

21 (b) *CONFORMING AMENDMENT*.—The analysis for
22 chapter 1 of title 23, United States Code (as amended by
23 section 1814(b)), is amended by adding at the end the fol-
24 lowing:

“178. Delta Region transportation development program.”.

1 **SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.**
2

3 (a) *ESTABLISHMENT.*—*The Secretary shall establish a*
4 *program to develop international trade corridors to facili-*
5 *tate the movement of freight from international ports of*
6 *entry and inland ports through and to the interior of the*
7 *United States.*

8 (b) *ELIGIBLE RECIPIENTS.*—*State transportation de-*
9 *partments and metropolitan planning organizations shall*
10 *be eligible to receive and administer funds provided under*
11 *the program.*

12 (c) *ELIGIBLE ACTIVITIES.*—*The Secretary shall make*
13 *allocations under this program for any activity eligible for*
14 *funding under title 23, United States Code, including*
15 *multistate highway and multistate multimodal planning*
16 *and project construction.*

17 (d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—
18 *All activities funded under this program shall be consistent*
19 *with the continuing, cooperative, and comprehensive plan-*
20 *ning processes required by sections 134 and 135 of title 23,*
21 *United States Code.*

22 (e) *SELECTION CRITERIA.*—*The Secretary shall only*
23 *select projects for corridors—*

24 (1) *that have significant levels or increases in*
25 *truck and traffic volume relating to international*
26 *freight movement;*

1 (2) *connect to at least 1 international terminus*
2 *or inland port;*

3 (3) *traverse at least 3 States; and*

4 (4) *are identified by section 115(c) of the Inter-*
5 *modal Transportation Efficiency Act of 1991 (Public*
6 *Law 102–240; 105 Stat. 2032).*

7 (f) *PROGRAM PRIORITIES.—In administering the pro-*
8 *gram, the Secretary shall—*

9 (1) *encourage and enable States and other juris-*
10 *dictions to work together to develop plans for*
11 *multimodal and multijurisdictional transportation*
12 *decisionmaking; and*

13 (2) *give priority to studies that emphasize*
14 *multimodal planning, including planning for oper-*
15 *ational improvements that increase mobility, freight*
16 *productivity, access to marine ports, safety, and secu-*
17 *rity while enhancing the environment.*

18 (g) *FEDERAL SHARE.—The Federal share required for*
19 *any study carried out under this section shall be available*
20 *for obligation in the same manner as if the funds were ap-*
21 *portioned under chapter I of title 23, United States Code.*

22 **SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR**
23 **STATES WITH INDIAN RESERVATIONS.**

24 *Section 1214(d)(5)(A) of the Transportation Equity*
25 *Act for the 21st Century (23 U.S.C. 202 note; 112 Stat.*

1 206) is amended by striking “\$1,500,000 for each of fiscal
2 years 1998 through 2003” and inserting “\$1,800,000 for
3 each of fiscal years 2004 through 2009”.

4 **Subtitle I—Technical Corrections**

5 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

6 (a) *LETTING OF CONTRACTS.*—Section 112 of title 23,
7 United States Code, is amended—

8 (1) by striking subsection (f); and

9 (2) by redesignating subsection (g) as subsection
10 (f).

11 (b) *FRINGE AND CORRIDOR PARKING FACILITIES.*—
12 Section 137(a) of title 23, United States Code, is amended
13 in the first sentence by striking “on the Federal-aid urban
14 system” and inserting “on a Federal-aid highway”.

15 **SEC. 1902. CLARIFICATION OF DATE.**

16 Section 109(g) of title 23, United States Code, is
17 amended in the first sentence by striking “The Secretary”
18 and all that follows through “of 1970” and inserting “Not
19 later than January 30, 1971, the Secretary shall issue”.

20 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

22 (a) *IN GENERAL.*—Section 154 of the Federal-Aid
23 Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)
24 is—

25 (1) transferred to title 23, United States Code;

1 (2) *redesignated as section 321;*

2 (3) *moved to appear after section 320 of that*
3 *title; and*

4 (4) *amended by striking the section heading and*
5 *inserting the following:*

6 **“§ 321. Signs identifying funding sources”.**

7 (b) *CONFORMING AMENDMENT.—The analysis for*
8 *chapter 3 of title 23, United States Code, is amended by*
9 *inserting after the item relating to section 320 the following:*
“321. Signs identifying funding sources.”.

10 **SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN**

11 **TITLE 23.**

12 (a) *IN GENERAL.—Section 165 of the Highway Im-*
13 *provement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136)*
14 *is—*

15 (1) *transferred to title 23, United States Code;*

16 (2) *redesignated as section 313;*

17 (3) *moved to appear after section 312 of that*
18 *title; and*

19 (4) *amended by striking the section heading and*
20 *inserting the following:*

21 **“§ 313. Buy America”.**

22 (b) *CONFORMING AMENDMENTS.—*

1 (1) *The analysis for chapter 3 of title 23, United*
2 *States Code, is amended by inserting after the item*
3 *relating to section 312 the following:*

 “313. *Buy America.*”.

4 (2) *Section 313 of title 23, United States Code*
5 *(as added by subsection (a)), is amended—*

6 (A) *in subsection (a), by striking “by this*
7 *Act” the first place it appears and all that fol-*
8 *lows through “of 1978” and inserting “to carry*
9 *out the Surface Transportation Assistance Act of*
10 *1982 (96 Stat. 2097) or this title”;*

11 (B) *in subsection (b), by redesignating*
12 *paragraph (4) as paragraph (3);*

13 (C) *in subsection (d), by striking “this*
14 *Act,” and all that follows through “Code, which”*
15 *and inserting “the Surface Transportation As-*
16 *istance Act of 1982 (96 Stat. 2097) or this title*
17 *that”;*

18 (D) *by striking subsection (e); and*

19 (E) *by redesignating subsections (f) and (g)*
20 *as subsections (e) and (f), respectively.*

21 **SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINA-**
22 **TION SECTION.**

23 *Section 140 of title 23, United States Code, is amend-*
24 *ed—*

25 (1) *in subsection (a)—*

1 (A) in the first sentence, by striking “sub-
2 section (a) of section 105 of this title” and in-
3 serting “section 135”;

4 (B) in the second sentence, by striking “He”
5 and inserting “The Secretary”;

6 (C) in the third sentence, by striking “where
7 he considers it necessary to assure” and insert-
8 ing “if necessary to ensure”; and

9 (D) in the last sentence—

10 (i) by striking “him” and inserting
11 “the Secretary” and

12 (ii) by striking “he” and inserting “the
13 Secretary”;

14 (2) in subsection (b)—

15 (A) in the first sentence, by striking “high-
16 way construction” and inserting “surface trans-
17 portation”; and

18 (B) in the second sentence—

19 (i) by striking “as he may deem nec-
20 essary” and inserting “as necessary”; and

21 (ii) by striking “not to exceed
22 \$2,500,000 for the transition quarter ending
23 September 30, 1976, and”;

24 (3) in the second sentence of subsection (c)—

1 (A) by striking “subsection 104(b)(3) of this
 2 title” and inserting “section 104(b)(3)”; and
 3 (B) by striking “he may deem”; and
 4 (4) in the heading of subsection (d), by striking
 5 “AND CONTRACTING”.

6 **TITLE II—TRANSPORTATION**
 7 **RESEARCH**
 8 **Subtitle A—Funding**

9 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

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

13 (1) *SURFACE TRANSPORTATION RESEARCH.*—

14 (A) *IN GENERAL.*—For carrying out sec-
 15 tions 502, 503, 506, 507, 508, and 511 of title
 16 23, United States Code—

17 (i) \$211,000,000 for each of fiscal
 18 years 2004 and 2005;

19 (ii) \$215,000,000 for fiscal year 2006;

20 (iii) \$218,000,000 for fiscal year 2007;

21 (iv) \$220,000,000 for fiscal year 2008;

22 and

23 (v) \$223,000,000 for fiscal year 2009.

24 (B) *SURFACE TRANSPORTATION-ENVIRON-*
 25 *MENTAL COOPERATIVE RESEARCH PROGRAM.*—

1 *For each of fiscal years 2004 through 2009, the*
2 *Secretary shall set aside \$20,000,000 of the funds*
3 *authorized under subparagraph (A) to carry out*
4 *the surface transportation-environmental cooper-*
5 *ative research program under section 507 of title*
6 *23, United States Code.*

7 (2) *TRAINING AND EDUCATION.—For carrying*
8 *out section 504 of title 23, United States Code—*

- 9 (A) *\$27,000,000 for fiscal year 2004;*
10 (B) *\$28,000,000 for fiscal year 2005;*
11 (C) *\$29,000,000 for fiscal year 2006;*
12 (D) *\$30,000,000 for fiscal year 2007;*
13 (E) *\$31,000,000 for fiscal year 2008; and*
14 (F) *\$32,000,000 for fiscal year 2009.*

15 (3) *BUREAU OF TRANSPORTATION STATISTICS.—*
16 *For the Bureau of Transportation Statistics to carry*
17 *out section 111 of title 49, United States Code,*
18 *\$28,000,000 for each of fiscal years 2004 through*
19 *2009.*

20 (4) *ITS STANDARDS, RESEARCH, OPERATIONAL*
21 *TESTS, AND DEVELOPMENT.—For carrying out sec-*
22 *tions 524, 525, 526, 527, 528, and 529 of title 23,*
23 *United States Code—*

- 24 (A) *\$120,000,000 for fiscal year 2004;*
25 (B) *\$123,000,000 for fiscal year 2005;*

- 1 (C) \$126,000,000 for fiscal year 2006;
2 (D) \$129,000,000 for fiscal year 2007;
3 (E) \$132,000,000 for fiscal year 2008; and
4 (F) \$135,000,000 for fiscal year 2009.

5 (5) *UNIVERSITY TRANSPORTATION CENTERS.*—
6 For carrying out section 510 of title 23, United States
7 Code—

- 8 (A) \$40,000,000 for fiscal year 2004; and
9 (B) \$45,000,000 for each of fiscal years
10 2005 through 2009.

11 (b) *APPLICABILITY OF TITLE 23, UNITED STATES*
12 *CODE.*—Funds authorized to be appropriated by subsection
13 (a)—

14 (1) shall be available for obligation in the same
15 manner as if the funds were apportioned under chap-
16 ter 1 of title 23, United States Code, except that the
17 Federal share of the cost of a project or activity car-
18 ried out using the funds shall be the share applicable
19 under section 120(b) of title 23, United States Code,
20 as adjusted under subsection (d) of that section (un-
21 less otherwise specified or otherwise determined by the
22 Secretary); and

23 (2) shall remain available until expended.

24 (c) *ALLOCATIONS.*—

1 (1) *SURFACE TRANSPORTATION RESEARCH.*—Of
2 the amounts made available under subsection (a)(1)—

3 (A) \$27,000,000 for each of fiscal years
4 2004 through 2009 shall be available to carry
5 out advanced, high-risk, long-term research
6 under section 502(d) of title 23, United States
7 Code;

8 (B) \$18,000,000 for fiscal years 2004 and
9 2005, \$17,000,000 for fiscal year 2006,
10 \$15,000,000 for fiscal year 2007, \$12,000,000 for
11 fiscal year 2008, and \$10,00,000 for fiscal year
12 2009 shall be available to carry out the long-
13 term pavement performance program under sec-
14 tion 502(e) of that title;

15 (C) \$6,000,000 for each of fiscal years 2004
16 through 2009 shall be available to carry out the
17 high-performance concrete bridge research and
18 technology transfer program under section 502(i)
19 of that title;

20 (D) \$6,000,000 for each of fiscal years 2004
21 through 2009 shall be made available to carry
22 out research on asphalt used in highway pave-
23 ments;

1 (E) \$6,000,000 for each of fiscal years 2004
2 through 2009 shall be made available to carry
3 out research on concrete pavements;

4 (F) \$3,000,000 for each of fiscal years 2004
5 through 2009 shall be made available to carry
6 out research on aggregates used in highway
7 pavements;

8 (G) \$4,750,000 for each of fiscal years 2004
9 through 2009 shall be made available for further
10 development and deployment of techniques to
11 prevent and mitigate alkali silica reactivity;

12 (H) \$2,000,000 for fiscal year 2005 shall be
13 remain available until expended for asphalt and
14 asphalt-related reclamation research at the South
15 Dakota School of Mines; and

16 (I) \$3,000,000 for each of fiscal years 2004
17 through 2009 shall be made available to carry
18 out section 502(f)(3) of title 23, United States
19 Code.

20 (2) *TECHNOLOGY APPLICATION PROGRAM.*—Of
21 the amounts made available under subsection (a)(1),
22 \$60,000,000 for each of fiscal years 2004 through
23 2009 shall be available to carry out section 503 of
24 title 23, United States Code.

1 (3) *TRAINING AND EDUCATION.*—*Of the amounts*
2 *made available under subsection (a)(2)—*

3 (A) *\$12,000,000 for fiscal year 2004,*
4 *\$12,500,000 for fiscal year 2005, \$13,000,000 for*
5 *fiscal year 2006, \$13,500,000 for fiscal year*
6 *2007, \$14,000,000 for fiscal year 2008, and*
7 *\$14,500,000 for fiscal year 2009 shall be avail-*
8 *able to carry out section 504(a) of title 23,*
9 *United States Code (relating to the National*
10 *Highway Institute);*

11 (B) *\$15,000,000 for each of fiscal years*
12 *2004 through 2009 shall be available to carry*
13 *out section 504(b) of that title (relating to local*
14 *technical assistance); and*

15 (C) *\$3,000,000 for each of fiscal years 2004*
16 *through 2009 shall be available to carry out sec-*
17 *tion 504(c)(2) of that title (relating to the Eisen-*
18 *hower Transportation Fellowship Program).*

19 (4) *INTERNATIONAL HIGHWAY TRANSPORTATION*
20 *OUTREACH PROGRAM.*—*Of the amounts made avail-*
21 *able under subsection (a)(1), \$500,000 for each of fis-*
22 *cal years 2004 through 2009 shall be available to*
23 *carry out section 506 of title 23, United States Code.*

24 (5) *NEW STRATEGIC HIGHWAY RESEARCH PRO-*
25 *GRAM.*—*For each of fiscal years 2004 through 2009,*

1 to carry out section 509 of title 23, United States
2 Code, the Secretary shall set aside—

3 (A) \$15,000,000 of the amounts made avail-
4 able to carry out the interstate maintenance pro-
5 gram under section 119 of title 23, United States
6 Code, for the fiscal year;

7 (B) \$19,000,000 of the amounts made avail-
8 able for the National Highway System under
9 section 101 of title 23, United States Code, for
10 the fiscal year;

11 (C) \$13,000,000 of the amounts made avail-
12 able to carry out the bridge program under sec-
13 tion 144 of title 23, United States Code, for the
14 fiscal year;

15 (D) \$20,000,000 of the amounts made avail-
16 able to carry out the surface transportation pro-
17 gram under section 133 of title 23, United States
18 Code, for the fiscal year;

19 (E) \$5,000,000 of the amounts made avail-
20 able to carry out the congestion mitigation and
21 air quality improvement program under section
22 149 of title 23, United States Code, for the fiscal
23 year; and

24 (F) \$3,000,000 of the amounts made avail-
25 able to carry out the highway safety improve-

1 *ment program under section 148 of title 23,*
2 *United States Code, for the fiscal year.*

3 (6) *COMMERCIAL VEHICLE INTELLIGENT TRANS-*
4 *PORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of*
5 *the amounts made available under subsection (a)(4),*
6 *not less than \$30,000,000 for each of fiscal years 2004*
7 *through 2009 shall be available to carry out section*
8 *527 of title 23, United States Code.*

9 (d) *TRANSFERS OF FUNDS.—The Secretary may*
10 *transfer—*

11 (1) *to an amount made available under para-*
12 *graphs (1), (2), or (4) of subsection (c), not to exceed*
13 *10 percent of the amount allocated for a fiscal year*
14 *under any other of those paragraphs; and*

15 (2) *to an amount made available under subpara-*
16 *graphs (A), (B), or (C) of subsection (c)(3), not to ex-*
17 *ceed 10 percent of the amount allocated for a fiscal*
18 *year under any other of those subparagraphs.*

19 **SEC. 2002. OBLIGATION CEILING.**

20 *Notwithstanding any other provision of law, the total*
21 *of all obligations from amounts made available from the*
22 *Highway Trust Fund (other than the Mass Transit Ac-*
23 *count) by section 2001(a) shall not exceed—*

24 (1) *\$426,200,000 for fiscal year 2004;*

25 (2) *\$435,200,000 for fiscal year 2005;*

- 1 (3) \$443,200,000 for fiscal year 2006;
2 (4) \$450,200,000 for fiscal year 2007;
3 (5) \$456,200,000 for fiscal year 2008; and
4 (6) \$463,200,000 for fiscal year 2009.

5 **SEC. 2003. NOTICE.**

6 (a) *NOTICE OF REPROGRAMMING.*—If any funds au-
7 thORIZED for carrying out this title or the amendments made
8 by this title are subject to a reprogramming action that re-
9 quires notice to be provided to the Committee on Appropria-
10 tions of the House of Representatives and the Committee
11 on Appropriations of the Senate, notice of that action shall
12 be concurrently provided to the Committee on Transpor-
13 tation and Infrastructure and the Committee on Science of
14 the House of Representatives and the Committee on Envi-
15 ronment and Public Works of the Senate.

16 (b) *NOTICE OF REORGANIZATION.*—On or before the
17 15th day preceding the date of any major reorganization
18 of a program, project, or activity of the Department of
19 Transportation for which funds are authorized by this title
20 or the amendments made by this title, the Secretary shall
21 provide notice of the reorganization to the Committee on
22 Transportation and Infrastructure and the Committee on
23 Science of the House of Representatives and the Committee
24 on Environment and Public Works of the Senate.

1 **Subtitle B—Research and**
 2 **Technology**

3 **SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.**

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

6 **“CHAPTER 5—RESEARCH AND**
 7 **TECHNOLOGY**

 “SUBCHAPTER I—SURFACE TRANSPORTATION

“Sec.

“501. *Definitions.*

“502. *Surface transportation research.*

“503. *Technology application program.*

“504. *Training and education.*

“505. *State planning and research.*

“506. *International highway transportation outreach program.*

“507. *Surface transportation-environmental cooperative research program.*

“508. *Surface transportation research technology deployment and strategic plan-*
ning.

“509. *New strategic highway research program.*

“510. *University transportation centers.*

“511. *Multistate corridor operations and management.*

“512. *Transportation analysis simulation system.*

 “SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM
 RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

“521. *Finding.*

“522. *Goals and purposes.*

“523. *Definitions.*

“524. *General authorities and requirements.*

“525. *National ITS Program Plan.*

“526. *National ITS architecture and standards.*

“527. *Commercial vehicle intelligent transportation system infrastructure pro-*
gram.

“528. *Research and development.*

“529. *Use of funds.*

8 “SUBCHAPTER I—SURFACE TRANSPORTATION

9 **“§ 501. Definitions**

10 *“In this subchapter:*

1 “(1) *FEDERAL LABORATORY*.—*The term ‘Federal*
2 *laboratory’ includes—*

3 “(A) *a Government-owned, Government-op-*
4 *erated laboratory; and*

5 “(B) *a Government-owned, contractor-oper-*
6 *ated laboratory.*

7 “(2) *SAFETY*.—*The term ‘safety’ includes high-*
8 *way and traffic safety systems, research, and develop-*
9 *ment relating to—*

10 “(A) *vehicle, highway, driver, passenger, bi-*
11 *cyclist, and pedestrian characteristics;*

12 “(B) *accident investigations;*

13 “(C) *integrated, interoperable emergency*
14 *communications;*

15 “(D) *emergency medical care; and*

16 “(E) *transportation of the injured.*

17 **“§ 502. *Surface transportation research***

18 “(a) *IN GENERAL*.—

19 “(1) *RESEARCH, DEVELOPMENT, AND TECH-*
20 *NOLOGY TRANSFER ACTIVITIES*.—*The Secretary may*
21 *carry out research, development, and technology*
22 *transfer activities with respect to—*

23 “(A) *all phases of transportation planning*
24 *and development (including new technologies,*
25 *construction, transportation systems manage-*

1 *ment and operations development, design, main-*
2 *tenance, safety, security, financing, data collec-*
3 *tion and analysis, demand forecasting,*
4 *multimodal assessment, and traffic conditions);*
5 *and*

6 “(B) *the effect of State laws on the activities*
7 *described in subparagraph (A).*

8 “(2) *TESTS AND DEVELOPMENT.—The Secretary*
9 *may test, develop, or assist in testing and developing,*
10 *any material, invention, patented article, or process.*

11 “(3) *COOPERATION, GRANTS, AND CONTRACTS.—*

12 “(A) *IN GENERAL.—The Secretary may*
13 *carry out this section—*

14 “(i) *independently;*

15 “(ii) *in cooperation with—*

16 “(I) *any other Federal agency or*
17 *instrumentality; and*

18 “(II) *any Federal laboratory; or*

19 “(iii) *by making grants to, or entering*
20 *into contracts, cooperative agreements, and*
21 *other transactions with—*

22 “(I) *the National Academy of*
23 *Sciences;*

1 “(II) *the American Association of*
2 *State Highway and Transportation*
3 *Officials;*

4 “(III) *planning organizations;*

5 “(IV) *a Federal laboratory;*

6 “(V) *a State agency;*

7 “(VI) *an authority, association,*
8 *institution, or organization;*

9 “(VII) *a for-profit or nonprofit*
10 *corporation;*

11 “(VIII) *a foreign country; or*

12 “(IX) *any other person.*

13 “(B) *COMPETITION; REVIEW.—All parties*
14 *entering into contracts, cooperative agreements*
15 *or other transactions with the Secretary, or re-*
16 *ceiving grants, to perform research or provide*
17 *technical assistance under this section shall be*
18 *selected, to the maximum extent practicable and*
19 *appropriate—*

20 “(i) *on a competitive basis; and*

21 “(ii) *on the basis of the results of peer*
22 *review of proposals submitted to the Sec-*
23 *retary.*

24 “(4) *TECHNOLOGICAL INNOVATION.—The pro-*
25 *grams and activities carried out under this section*

1 *shall be consistent with the surface transportation re-*
2 *search and technology development strategic plan de-*
3 *veloped under section 508(c).*

4 “(5) *FUNDS.—*

5 “(A) *SPECIAL ACCOUNT.—In addition to*
6 *other funds made available to carry out this sec-*
7 *tion, the Secretary shall use such funds as may*
8 *be deposited by any cooperating organization or*
9 *person in a special account of the Treasury es-*
10 *tablished for this purpose.*

11 “(B) *USE OF FUNDS.—The Secretary shall*
12 *use funds made available to carry out this sec-*
13 *tion to develop, administer, communicate, and*
14 *promote the use of products of research, develop-*
15 *ment, and technology transfer programs under*
16 *this section.*

17 “(b) *COLLABORATIVE RESEARCH AND DEVELOP-*
18 *MENT.—*

19 “(1) *IN GENERAL.—To encourage innovative so-*
20 *lutions to surface transportation problems and stimu-*
21 *late the deployment of new technology, the Secretary*
22 *may carry out, on a cost-shared basis, collaborative*
23 *research and development with—*

24 “(A) *non-Federal entities (including State*
25 *and local governments, foreign governments, col-*

1 *leges and universities, corporations, institutions,*
2 *partnerships, sole proprietorships, and trade as-*
3 *sociations that are incorporated or established*
4 *under the laws of any State); and*

5 “(B) *Federal laboratories.*

6 “(2) *AGREEMENTS.—In carrying out this sub-*
7 *section, the Secretary may enter into cooperative re-*
8 *search and development agreements (as defined in sec-*
9 *tion 12 of the Stevenson-Wydler Technology Innova-*
10 *tion Act of 1980 (15 U.S.C. 3710a)).*

11 “(3) *FEDERAL SHARE.—*

12 “(A) *IN GENERAL.—The Federal share of*
13 *the cost of activities carried out under a coopera-*
14 *tive research and development agreement entered*
15 *into under this subsection shall not exceed 50*
16 *percent, except that if there is substantial public*
17 *interest or benefit, the Secretary may approve a*
18 *greater Federal share.*

19 “(B) *NON-FEDERAL SHARE.—All costs di-*
20 *rectly incurred by the non-Federal partners, in-*
21 *cluding personnel, travel, and hardware develop-*
22 *ment costs, shall be credited toward the non-Fed-*
23 *eral share of the cost of the activities described*
24 *in subparagraph (A).*

1 “(4) *USE OF TECHNOLOGY.*—*The research, devel-*
2 *opment, or use of a technology under a cooperative re-*
3 *search and development agreement entered into under*
4 *this subsection, including the terms under which the*
5 *technology may be licensed and the resulting royalties*
6 *may be distributed, shall be subject to the Stevenson-*
7 *Wydler Technology Innovation Act of 1980 (15 U.S.C.*
8 *3701 et seq.).*

9 “(5) *WAIVER OF ADVERTISING REQUIRE-*
10 *MENTS.*—*Section 3709 of the Revised Statutes (41*
11 *U.S.C. 5) shall not apply to a contract or agreement*
12 *entered into under this chapter.*

13 “(c) *CONTENTS OF RESEARCH PROGRAM.*—*The Sec-*
14 *retary shall include as priority areas of effort within the*
15 *surface transportation research program—*

16 “(1) *the development of new technologies and*
17 *methods in materials, pavements, structures, design,*
18 *and construction, with the objectives of—*

19 “(A)(i) *increasing to 50 years the expected*
20 *life of pavements;*

21 “(ii) *increasing to 100 years the expected*
22 *life of bridges; and*

23 “(iii) *significantly increasing the durability*
24 *of other infrastructure;*

1 “(B) lowering the life-cycle costs, includ-
2 ing—

3 “(i) construction costs;

4 “(ii) maintenance costs;

5 “(iii) operations costs; and

6 “(vi) user costs.

7 “(2) the development, and testing for effective-
8 ness, of nondestructive evaluation technologies for
9 civil infrastructure using existing and new tech-
10 nologies;

11 “(3) the investigation of—

12 “(A) the application of current natural haz-
13 ard mitigation techniques to manmade hazards;
14 and

15 “(B) the continuation of hazard mitigation
16 research combining manmade and natural haz-
17 ards;

18 “(4) the improvement of safety—

19 “(A) at intersections;

20 “(B) with respect to accidents involving ve-
21 hicles run off the road; and

22 “(C) on rural roads;

23 “(5) the reduction of work zone incursions and
24 improvement of work zone safety;

1 “(6) the improvement of geometric design of
2 roads for the purpose of safety;

3 “(7) the examination of data collected through
4 the national bridge inventory conducted under section
5 144 using the national bridge inspection standards
6 established under section 151, with the objectives of
7 determining whether—

8 “(A) the most useful types of data are being
9 collected; and

10 “(B) any improvement could be made in the
11 types of data collected and the manner in which
12 the data is collected, with respect to bridges in
13 the United States;

14 “(8) the improvement of the infrastructure in-
15 vestment needs report described in subsection (g)
16 through—

17 “(A) the study and implementation of new
18 methods of collecting better quality data, par-
19 ticularly with respect to performance, congestion,
20 and infrastructure conditions;

21 “(B) monitoring of the surface transpor-
22 tation system in a system-wide manner, through
23 the use of—

1 “(i) intelligent transportation system
2 technologies of traffic operations centers;
3 and

4 “(ii) other new data collection tech-
5 nologies as sources of better quality per-
6 formance data;

7 “(C) the determination of the critical
8 metrics that should be used to determine the con-
9 dition and performance of the surface transpor-
10 tation system; and

11 “(D) the study and implementation of new
12 methods of statistical analysis and computer
13 models to improve the prediction of future infra-
14 structure investment requirements;

15 “(9) the development of methods to improve the
16 determination of benefits from infrastructure im-
17 provements, including—

18 “(A) more accurate calculations of benefit-
19 to-cost ratios, considering benefits and impacts
20 throughout local and regional transportation sys-
21 tems;

22 “(B) improvements in calculating life-cycle
23 costs; and

24 “(C) valuation of assets;

1 “(10) the improvement of planning processes to
2 better predict outcomes of transportation projects, in-
3 cluding the application of computer simulations in
4 the planning process to predict outcomes of planning
5 decisions;

6 “(11) the multimodal applications of Geographic
7 Information Systems and remote sensing, including
8 such areas of application as—

9 “(A) planning;

10 “(B) environmental decisionmaking and
11 project delivery; and

12 “(C) freight movement;

13 “(12) the development and application of meth-
14 ods of providing revenues to the Highway Trust Fund
15 with the objective of offsetting potential reductions in
16 fuel tax receipts;

17 “(13) the development of tests and methods to de-
18 termine the benefits and costs to communities of
19 major transportation investments and projects;

20 “(14) the conduct of extreme weather research,
21 including research to—

22 “(A) reduce contraction and expansion
23 damage;

24 “(B) reduce or repair road damage caused
25 by freezing and thawing;

1 “(C) improve deicing or snow removal tech-
2 niques;

3 “(D) develop better methods to reduce the
4 risk of thermal collapse, including collapse from
5 changes in underlying permafrost;

6 “(E) improve concrete and asphalt installa-
7 tion in extreme weather conditions; and

8 “(F) make other improvements to protect
9 highway infrastructure or enhance highway safe-
10 ty or performance;

11 “(15) the improvement of surface transportation
12 planning;

13 “(16) environmental research;

14 “(17) transportation system management and
15 operations; and

16 “(18) any other surface transportation research
17 topics that the Secretary determines, in accordance
18 with the strategic planning process under section 508,
19 to be critical.

20 “(d) *ADVANCED, HIGH-RISK RESEARCH.*—

21 “(1) *IN GENERAL.*—The Secretary shall establish
22 and carry out, in accordance with the surface trans-
23 portation research and technology development stra-
24 tegic plan developed under section 508(c) and re-
25 search priority areas described in subsection (c), an

1 *advanced research program that addresses longer-*
2 *term, higher-risk research with potentially dramatic*
3 *breakthroughs for improving the durability, efficiency,*
4 *environmental impact, productivity, and safety (in-*
5 *cluding bicycle and pedestrian safety) aspects of high-*
6 *way and intermodal transportation systems.*

7 “(2) *PARTNERSHIPS.*—*In carrying out the pro-*
8 *gram, the Secretary shall seek to develop partnerships*
9 *with the public and private sectors.*

10 “(3) *REPORT.*—*The Secretary shall include in*
11 *the strategic plan required under section 508(c) a de-*
12 *scription of each of the projects, and the amount of*
13 *funds expended for each project, carried out under*
14 *this subsection during the fiscal year.*

15 “(e) *LONG-TERM PAVEMENT PERFORMANCE PRO-*
16 *GRAM.*—

17 “(1) *AUTHORITY.*—*The Secretary shall continue,*
18 *through September 30, 2009, the long-term pavement*
19 *performance program tests, monitoring, and data*
20 *analysis.*

21 “(2) *GRANTS, COOPERATIVE AGREEMENTS, AND*
22 *CONTRACTS.*—*Under the program, the Secretary shall*
23 *make grants and enter into cooperative agreements*
24 *and contracts to—*

1 “(A) monitor, material-test, and evaluate
2 highway test sections in existence as of the date
3 of the grant, agreement, or contract;

4 “(B) analyze the data obtained in carrying
5 out subparagraph (A); and

6 “(C) prepare products to fulfill program ob-
7 jectives and meet future pavement technology
8 needs.

9 “(3) CONCLUSION OF PROGRAM.—

10 “(A) SUMMARY REPORT.—The Secretary
11 shall include in the strategic plan required under
12 section 508(c) a report on the initial conclusions
13 of the long-term pavement performance program
14 that includes—

15 “(i) an analysis of any research objec-
16 tives that remain to be achieved under the
17 program;

18 “(ii) an analysis of other associated
19 longer-term expenditures under the program
20 that are in the public interest;

21 “(iii) a detailed plan regarding the
22 storage, maintenance, and user support of
23 the database, information management sys-
24 tem, and materials reference library of the
25 program;

1 “(iv) a schedule for continued imple-
2 mentation of the necessary data collection
3 and analysis and project plan under the
4 program; and

5 “(v) an estimate of the costs of car-
6 rying out each of the activities described in
7 clauses (i) through (iv) for each fiscal year
8 during which the program is carried out.

9 “(B) *DEADLINE; USEFULNESS OF AD-*
10 *VANCES.—The Secretary shall, to the maximum*
11 *extent practicable—*

12 “(i) ensure that the long-term pave-
13 ment performance program is concluded not
14 later than September 30, 2009; and

15 “(ii) make such allowances as are nec-
16 essary to ensure the usefulness of the techno-
17 logical advances resulting from the pro-
18 gram.

19 “(f) *SEISMIC RESEARCH.—The Secretary shall—*

20 “(1) in consultation and cooperation with Fed-
21 eral agencies participating in the National Earth-
22 quake Hazards Reduction Program established by sec-
23 tion 5 of the Earthquake Hazards Reduction Act of
24 1977 (42 U.S.C. 7704), coordinate the conduct of seis-
25 mic research;

1 “(2) take such actions as are necessary to ensure
2 that the coordination of the research is consistent
3 with—

4 “(A) planning and coordination activities
5 of the Director of the Federal Emergency Man-
6 agement Agency under section 5(b)(1) of that Act
7 (42 U.S.C. 7704(b)(1)); and

8 “(B) the plan developed by the Director of
9 the Federal Emergency Management Agency
10 under section 8(b) of that Act (42 U.S.C.
11 7705b(b)); and

12 “(3) in cooperation with the Center for Civil En-
13 gineering Research at the University of Nevada, Reno,
14 carry out a seismic research program—

15 “(A) to study the vulnerability of the Fed-
16 eral-aid highway system and other surface trans-
17 portation systems to seismic activity;

18 “(B) to develop and implement cost-effective
19 methods to reduce the vulnerability; and

20 “(C) to conduct seismic research and up-
21 grade earthquake simulation facilities as nec-
22 essary to carry out the program.

23 “(g) *INFRASTRUCTURE INVESTMENT NEEDS RE-*
24 *PORT.*—

1 “(1) *IN GENERAL.*—Not later than July 31,
2 2004, and July 31 of every second year thereafter, the
3 Secretary shall submit to the Committee on Environ-
4 ment and Public Works of the Senate and the Com-
5 mittee on Transportation and Infrastructure of the
6 House of Representatives a report that describes—

7 “(A) estimates of the future highway and
8 bridge needs of the United States; and

9 “(B) the backlog of current highway and
10 bridge needs.

11 “(2) *COMPARISON WITH PRIOR REPORTS.*—Each
12 report under paragraph (1) shall provide the means,
13 including all necessary information, to relate and
14 compare the conditions and service measures used in
15 the previous biennial reports.

16 “(h) *SECURITY RELATED RESEARCH AND TECH-*
17 *NOLOGY TRANSFER ACTIVITIES.*—

18 “(1) *IN GENERAL.*—Not later than 180 days
19 after the date of enactment of the Safe, Accountable,
20 Flexible, and Efficient Transportation Equity Act of
21 2004, the Secretary, in consultation with the Sec-
22 retary of Homeland Security, with key stakeholder
23 input (including State transportation departments)
24 shall develop a 5-year strategic plan for research and
25 technology transfer and deployment activities per-

1 *taining to the security aspects of highway infrastruc-*
2 *ture and operations.*

3 *“(2) COMPONENTS OF PLAN.—The plan shall in-*
4 *clude—*

5 *“(A) an identification of which agencies are*
6 *responsible for the conduct of various research*
7 *and technology transfer activities;*

8 *“(B) a description of the manner in which*
9 *those activities will be coordinated; and*

10 *“(C) a description of the process to be used*
11 *to ensure that the advances derived from relevant*
12 *activities supported by the Federal Highway Ad-*
13 *ministration are consistent with the operational*
14 *guidelines, policies, recommendations, and regu-*
15 *lations of the Department of Homeland Security;*
16 *and*

17 *“(D) a systematic evaluation of the research*
18 *that should be conducted to address, at a min-*
19 *imum—*

20 *“(i) vulnerabilities of, and measures*
21 *that may be taken to improve, emergency*
22 *response capabilities and evacuations;*

23 *“(ii) recommended upgrades of traffic*
24 *management during crises;*

1 “(iii) *integrated, interoperable emer-*
2 *gency communications among the public,*
3 *the military, law enforcement, fire and*
4 *emergency medical services, and transpor-*
5 *tation agencies;*

6 “(iv) *protection of critical, security-re-*
7 *lated infrastructure; and*

8 “(v) *structural reinforcement of key fa-*
9 *cilities.*

10 “(3) *SUBMISSION.—On completion of the plan*
11 *under this subsection, the Secretary shall submit to*
12 *the Committee on Environment and Public Works of*
13 *the Senate and the Committee on Transportation and*
14 *Infrastructure of the House of Representatives—*

15 “(A) *a copy of the plan developed under*
16 *paragraph (1); and*

17 “(B) *a copy of a memorandum of under-*
18 *standing specifying coordination strategies and*
19 *assignment of responsibilities covered by the plan*
20 *that is signed by the Secretary and the Secretary*
21 *of Homeland Security.*

22 “(i) *HIGH-PERFORMANCE CONCRETE BRIDGE RE-*
23 *SEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In ac-*
24 *cordance with the objectives described in subsection (c)(1)*
25 *and the requirements under sections 503(b)(4) and 504(b),*

1 *the Secretary shall carry out a program to demonstrate the*
2 *application of high-performance concrete in the construc-*
3 *tion and rehabilitation of bridges.*

4 “(j) *BIOBASED TRANSPORTATION RESEARCH.*—*There*
5 *shall be available from the Highway Trust Fund (other*
6 *than the Mass Transit Account) \$18,000,000 for each of fis-*
7 *cal years 2004 through 2009 equally divided and available*
8 *to carry out biobased research of national importance at*
9 *the National Biodiesel Board and at research centers identi-*
10 *fied in section 9011 of Public Law 107–171.*

11 **“§ 503. *Technology application program***

12 “(a) *TECHNOLOGY APPLICATION INITIATIVES AND*
13 *PARTNERSHIPS PROGRAM.*—

14 “(1) *ESTABLISHMENT.*—*The Secretary, in con-*
15 *sultation with interested stakeholders, shall develop*
16 *and administer a national technology and innovation*
17 *application initiatives and partnerships program.*

18 “(2) *PURPOSE.*—*The purpose of the program*
19 *shall be to significantly accelerate the adoption of*
20 *technology and innovation by the surface transpor-*
21 *tation community.*

22 “(3) *APPLICATION GOALS.*—

23 “(A) *ESTABLISHMENT.*—*Not later than 180*
24 *days after the date of enactment of the Safe, Ac-*
25 *countable, Flexible, and Efficient Transportation*

1 *Equity Act of 2004, the Secretary, in consulta-*
2 *tion with the Surface Transportation Research*
3 *Technology Advisory Committee, State transpor-*
4 *tation departments, and other interested stake-*
5 *holders, shall establish, as part of the surface*
6 *transportation research and technology develop-*
7 *ment strategic plan under section 508(c), goals*
8 *to carry out paragraph (1).*

9 “(B) *DESIGN.*—*Each of the goals and the*
10 *program developed to achieve the goals shall be*
11 *designed to provide tangible benefits, with respect*
12 *to transportation systems, in the areas of effi-*
13 *ciency, safety, reliability, service life, environ-*
14 *mental protection, and sustainability.*

15 “(C) *STRATEGIES FOR ACHIEVEMENT.*—*For*
16 *each goal, the Secretary, in cooperation with rep-*
17 *resentatives of the transportation community,*
18 *such as States, local governments, the private*
19 *sector, and academia, shall use domestic and*
20 *international technology to develop strategies*
21 *and initiatives to achieve the goal, including*
22 *technical assistance in deploying technology and*
23 *mechanisms for sharing information among pro-*
24 *gram participants.*

1 “(4) *INTEGRATION WITH OTHER PROGRAMS.*—
2 *The Secretary shall integrate activities carried out*
3 *under this subsection with the efforts of the Secretary*
4 *to—*

5 “(A) *disseminate the results of research*
6 *sponsored by the Secretary; and*

7 “(B) *facilitate technology transfer.*

8 “(5) *LEVERAGING OF FEDERAL RESOURCES.*—*In*
9 *selecting projects to be carried out under this sub-*
10 *section, the Secretary shall give preference to projects*
11 *that leverage Federal funds with other significant*
12 *public or private resources.*

13 “(6) *GRANTS, COOPERATIVE AGREEMENTS, AND*
14 *CONTRACTS.*—*Under the program, the Secretary may*
15 *make grants and enter into cooperative agreements*
16 *and contracts to foster alliances and support efforts to*
17 *stimulate advances in transportation technology.*

18 “(7) *REPORTS.*—*The results and progress of ac-*
19 *tivities carried out under this section shall be pub-*
20 *lished as part of the annual transportation research*
21 *report prepared by the Secretary under section*
22 *508(c)(5).*

23 “(8) *ALLOCATION.*—*To the extent appropriate to*
24 *achieve the goals established under paragraph (3), the*
25 *Secretary may further allocate funds made available*

1 to carry out this section to States for use by those
2 States.

3 “(b) *INNOVATIVE SURFACE TRANSPORTATION INFRA-*
4 *STRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—*

5 “(1) *IN GENERAL.—The Secretary shall establish*
6 *and carry out a program for the application of inno-*
7 *vative material, design, and construction technologies*
8 *in the construction, preservation, and rehabilitation*
9 *of elements of surface transportation infrastructure.*

10 “(2) *GOALS.—The goals of the program shall in-*
11 *clude—*

12 “(A) *the development of new, cost-effective,*
13 *and innovative materials;*

14 “(B) *the reduction of maintenance costs and*
15 *life-cycle costs of elements of infrastructure, in-*
16 *cluding the costs of new construction, replace-*
17 *ment, and rehabilitation;*

18 “(C) *the development of construction tech-*
19 *niques to increase safety and reduce construction*
20 *time and traffic congestion;*

21 “(D) *the development of engineering design*
22 *criteria for innovative products and materials*
23 *for use in surface transportation infrastructure;*

1 “(E) the development of highway bridges
2 and structures that will withstand natural disas-
3 ters and disasters caused by human activity; and

4 “(F) the development of new, nondestructive
5 technologies and techniques for the evaluation of
6 elements of transportation infrastructure.

7 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
8 CONTRACTS.—

9 “(A) IN GENERAL.—Under the program, the
10 Secretary shall make grants to, and enter into
11 cooperative agreements and contracts with—

12 “(i) States, other Federal agencies,
13 universities and colleges, private sector enti-
14 ties, and nonprofit organizations, to pay the
15 Federal share of the cost of research, devel-
16 opment, and technology transfer concerning
17 innovative materials and methods; and

18 “(ii) States, to pay the Federal share
19 of the cost of repair, rehabilitation, replace-
20 ment, and new construction of elements of
21 surface transportation infrastructure that
22 demonstrate the application of innovative
23 materials and methods.

24 “(B) APPLICATIONS.—

1 “(i) *IN GENERAL.*—*To receive a grant*
2 *under this subsection, an entity described in*
3 *subparagraph (A) shall submit to the Sec-*
4 *retary an application in such form and*
5 *containing such information as the Sec-*
6 *retary may require.*

7 “(ii) *APPROVAL.*—*The Secretary shall*
8 *select and approve an application based on*
9 *whether the proposed project that is the sub-*
10 *ject of the application would meet the goals*
11 *described in paragraph (2).*

12 “(4) *TECHNOLOGY AND INFORMATION TRANS-*
13 *FER.*—*The Secretary shall take such action as is nec-*
14 *essary to—*

15 “(A) *ensure that the information and tech-*
16 *nology resulting from research conducted under*
17 *paragraph (3) is made available to State and*
18 *local transportation departments and other in-*
19 *terested parties, as specified by the Secretary;*
20 *and*

21 “(B) *encourage the use of the information*
22 *and technology.*

23 “(5) *FEDERAL SHARE.*—*The Federal share of the*
24 *cost of a project under this section shall be determined*
25 *by the Secretary.*

1 **“§ 504. Training and education**

2 “(a) NATIONAL HIGHWAY INSTITUTE.—

3 “(1) IN GENERAL.—The Secretary shall—

4 “(A) operate, in the Federal Highway Ad-
5 ministration, a National Highway Institute (re-
6 ferred to in this subsection as the ‘Institute’);
7 and

8 “(B) administer, through the Institute, the
9 authority vested in the Secretary by this title or
10 by any other law for the development and con-
11 duct of education and training programs relat-
12 ing to highways.

13 “(2) DUTIES OF THE INSTITUTE.—In coopera-
14 tion with State transportation departments, indus-
15 tries in the United States, and national or inter-
16 national entities, the Institute shall develop and ad-
17 minister education and training programs of instruc-
18 tion for—

19 “(A) Federal Highway Administration,
20 State, and local transportation agency employ-
21 ees;

22 “(B) regional, State, and metropolitan
23 planning organizations;

24 “(C) State and local police, public safety,
25 and motor vehicle employees; and

1 “(D) *United States citizens and foreign na-*
2 *tionals engaged or to be engaged in surface*
3 *transportation work of interest to the United*
4 *States.*

5 “(3) *COURSES.—*

6 “(A) *IN GENERAL.—The Institute shall—*

7 “(i) *develop or update existing courses*
8 *in asset management, including courses that*
9 *include such components as—*

10 “(I) *the determination of life-cycle*
11 *costs;*

12 “(II) *the valuation of assets;*

13 “(III) *benefit-to-cost ratio calcula-*
14 *tions; and*

15 “(IV) *objective decisionmaking*
16 *processes for project selection; and*

17 “(ii) *continually develop courses relat-*
18 *ing to the application of emerging tech-*
19 *nologies for—*

20 “(I) *transportation infrastructure*
21 *applications and asset management;*

22 “(II) *intelligent transportation*
23 *systems;*

24 “(III) *operations (including secu-*
25 *rity operations);*

1 “(IV) the collection and archiving
2 of data;

3 “(V) expediting the planning and
4 development of transportation projects;
5 and

6 “(VI) the intermodal movement of
7 individuals and freight.

8 “(B) *ADDITIONAL COURSES.*—*In addition*
9 *to the courses developed under subparagraph (A),*
10 *the Institute, in consultation with State trans-*
11 *portation departments, metropolitan planning*
12 *organizations, and the American Association of*
13 *State Highway and Transportation Officials,*
14 *may develop courses relating to technology, meth-*
15 *ods, techniques, engineering, construction, safety,*
16 *maintenance, environmental mitigation and*
17 *compliance, regulations, management, inspec-*
18 *tion, and finance.*

19 “(C) *REVISION OF COURSES OFFERED.*—
20 *The Institute shall periodically—*

21 “(i) review the course inventory of the
22 Institute; and

23 “(ii) revise or cease to offer courses
24 based on course content, applicability, and
25 need.

1 “(4) *ELIGIBILITY; FEDERAL SHARE.*—*The funds*
2 *apportioned to a State under section 104(b)(3) for the*
3 *surface transportation program shall be available for*
4 *expenditure by the State transportation department*
5 *for the payment of not to exceed 80 percent of the cost*
6 *of tuition and direct educational expenses (excluding*
7 *salaries) in connection with the education and train-*
8 *ing of employees of State and local transportation*
9 *agencies in accordance with this subsection.*

10 “(5) *FEDERAL RESPONSIBILITY.*—

11 “(A) *IN GENERAL.*—*Except as provided in*
12 *subparagraph (B), education and training of*
13 *employees of Federal, State, and local transpor-*
14 *tation (including highway) agencies authorized*
15 *under this subsection may be provided—*

16 “(i) *by the Secretary, at no cost to the*
17 *States and local governments, if the Sec-*
18 *retary determines that provision at no cost*
19 *is in the public interest; or*

20 “(ii) *by the State, through grants, co-*
21 *operative agreements, and contracts with*
22 *public and private agencies, institutions,*
23 *individuals, and the Institute.*

24 “(B) *PAYMENT OF FULL COST BY PRIVATE*
25 *PERSONS.*—*Private agencies, international or*

1 *foreign entities, and individuals shall pay the*
2 *full cost of any education and training (includ-*
3 *ing the cost of course development) received by*
4 *the agencies, entities, and individuals, unless the*
5 *Secretary determines that payment of a lesser*
6 *amount of the cost is of critical importance to*
7 *the public interest.*

8 “(6) *TRAINING FELLOWSHIPS; COOPERATION.—*

9 *The Institute may—*

10 “(A) *engage in training activities author-*
11 *ized under this subsection, including the grant-*
12 *ing of training fellowships; and*

13 “(B) *exercise the authority of the Institute*
14 *independently or in cooperation with any—*

15 “(i) *other Federal or State agency;*

16 “(ii) *association, authority, institu-*
17 *tion, or organization;*

18 “(iii) *for-profit or nonprofit corpora-*
19 *tion;*

20 “(iv) *national or international entity;*

21 “(v) *foreign country; or*

22 “(vi) *person.*

23 “(7) *COLLECTION OF FEES.—*

24 “(A) *IN GENERAL.—In accordance with this*
25 *subsection, the Institute may assess and collect*

1 *fees to defray the costs of the Institute in devel-*
2 *oping or administering education and training*
3 *programs under this subsection.*

4 “(B) *PERSONS SUBJECT TO FEES.—Fees*
5 *may be assessed and collected under this sub-*
6 *section only with respect to—*

7 “(i) *persons and entities for whom edu-*
8 *cation or training programs are developed*
9 *or administered under this subsection; and*

10 “(ii) *persons and entities to whom edu-*
11 *cation or training is provided under this*
12 *subsection.*

13 “(C) *AMOUNT OF FEES.—The fees assessed*
14 *and collected under this subsection shall be estab-*
15 *lished in a manner that ensures that the liability*
16 *of any person or entity for a fee is reasonably*
17 *based on the proportion of the costs referred to*
18 *in subparagraph (A) that relate to the person or*
19 *entity.*

20 “(D) *USE.—All fees collected under this*
21 *subsection shall be used, without further appro-*
22 *priation, to defray costs associated with the de-*
23 *velopment or administration of education and*
24 *training programs authorized under this sub-*
25 *section.*

1 “(8) *RELATION TO FEES.*—*The funds made*
2 *available to carry out this subsection may be com-*
3 *bined with or held separate from the fees collected*
4 *under—*

5 “(A) *paragraph (7);*

6 “(B) *memoranda of understanding;*

7 “(C) *regional compacts; and*

8 “(D) *other similar agreements.*

9 “(b) *LOCAL TECHNICAL ASSISTANCE PROGRAM.*—

10 “(1) *AUTHORITY.*—*The Secretary shall carry out*
11 *a local technical assistance program that will provide*
12 *access to surface transportation technology to—*

13 “(A) *highway and transportation agencies*
14 *in urbanized areas;*

15 “(B) *highway and transportation agencies*
16 *in rural areas;*

17 “(C) *contractors that perform work for the*
18 *agencies; and*

19 “(D) *infrastructure security.*

20 “(2) *GRANTS, COOPERATIVE AGREEMENTS, AND*
21 *CONTRACTS.*—*The Secretary may make grants and*
22 *enter into cooperative agreements and contracts to*
23 *provide education and training, technical assistance,*
24 *and related support services to—*

1 “(A) assist rural, local transportation agen-
2 cies and tribal governments, and the consultants
3 and construction personnel working for the agen-
4 cies and governments, to—

5 “(i) develop and expand expertise in
6 road and transportation areas (including
7 pavement, bridge, concrete structures, inter-
8 modal connections, safety management sys-
9 tems, intelligent transportation systems, in-
10 cident response, operations, and traffic safe-
11 ty countermeasures);

12 “(ii) improve roads and bridges;

13 “(iii) enhance—

14 “(I) programs for the movement of
15 passengers and freight; and

16 “(II) intergovernmental transpor-
17 tation planning and project selection;
18 and

19 “(iv) deal effectively with special
20 transportation-related problems by pre-
21 paring and providing training packages,
22 manuals, guidelines, and technical resource
23 materials;

24 “(B) develop technical assistance for tour-
25 ism and recreational travel;

1 “(C) identify, package, and deliver trans-
2 portation technology and traffic safety informa-
3 tion to local jurisdictions to assist urban trans-
4 portation agencies in developing and expanding
5 their ability to deal effectively with transpor-
6 tation-related problems (particularly the pro-
7 motion of regional cooperation);

8 “(D) operate, in cooperation with State
9 transportation departments and universities—

10 “(i) local technical assistance program
11 centers designated to provide transportation
12 technology transfer services to rural areas
13 and to urbanized areas; and

14 “(ii) local technical assistance program
15 centers designated to provide transportation
16 technical assistance to tribal governments;
17 and

18 “(E) allow local transportation agencies
19 and tribal governments, in cooperation with the
20 private sector, to enhance new technology imple-
21 mentation.

22 “(c) RESEARCH FELLOWSHIPS.—

23 “(1) GENERAL AUTHORITY.—The Secretary, act-
24 ing independently or in cooperation with other Fed-
25 eral agencies and instrumentalities, may make grants

1 *for research fellowships for any purpose for which re-*
2 *search is authorized by this chapter.*

3 “(2) *DWIGHT DAVID EISENHOWER TRANSPOR-*
4 *TATION FELLOWSHIP PROGRAM.—The Secretary shall*
5 *establish and implement a transportation research fel-*
6 *lowship program, to be known as the ‘Dwight David*
7 *Eisenhower Transportation Fellowship Program’, for*
8 *the purpose of attracting qualified students to the*
9 *field of transportation.*

10 **“§ 505. State planning and research**

11 “(a) *IN GENERAL.—Two percent of the sums appor-*
12 *tioned to a State for fiscal year 2004 and each fiscal year*
13 *thereafter under sections 104 (other than subsections (f) and*
14 *(h)) and 144 shall be available for expenditure by the State,*
15 *in consultation with the Secretary, only for—*

16 “(1) *the conduct of engineering and economic*
17 *surveys and investigations;*

18 “(2) *the planning of—*

19 “(A) *future highway programs and local*
20 *public transportation systems; and*

21 “(B) *the financing of those programs and*
22 *systems, including metropolitan and statewide*
23 *planning under sections 134 and 135;*

24 “(3) *the development and implementation of*
25 *management systems under section 303;*

1 “(4) *the conduct of studies on—*

2 “(A) *the economy, safety, and convenience*
3 *of surface transportation systems; and*

4 “(B) *the desirable regulation and equitable*
5 *taxation of those systems;*

6 “(5) *research, development, and technology trans-*
7 *fer activities necessary in connection with the plan-*
8 *ning, design, construction, management, and mainte-*
9 *nance of highway, public transportation, and inter-*
10 *modal transportation systems;*

11 “(6) *the conduct of studies, research, and train-*
12 *ing relating to the engineering standards and con-*
13 *struction materials for surface transportation systems*
14 *described in paragraph (5) (including the evaluation*
15 *and accreditation of inspection and testing and the*
16 *regulation of and charging for the use of the stand-*
17 *ards and materials); and*

18 “(7) *the conduct of activities relating to the*
19 *planning of real-time monitoring elements.*

20 “(b) *MINIMUM EXPENDITURES ON RESEARCH, DEVEL-*
21 *OPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—*

22 “(1) *IN GENERAL.—Subject to paragraph (2),*
23 *not less than 25 percent of the funds subject to sub-*
24 *section (a) that are apportioned to a State for a fiscal*

1 *year shall be expended by the State for research, de-*
2 *velopment, and technology transfer activities that—*

3 *“(A) are described in subsection (a); and*

4 *“(B) relate to highway, public transpor-*
5 *tation, and intermodal transportation systems.*

6 *“(2) WAIVERS.—The Secretary may waive the*
7 *application of paragraph (1) with respect to a State*
8 *for a fiscal year if—*

9 *“(A) the State certifies to the Secretary for*
10 *the fiscal year that total expenditures by the*
11 *State for transportation planning under sections*
12 *134 and 135 will exceed 75 percent of the funds*
13 *described in paragraph (1); and*

14 *“(B) the Secretary accepts the certification*
15 *of the State.*

16 *“(3) NONAPPLICABILITY OF ASSESSMENT.—*
17 *Funds expended under paragraph (1) shall not be*
18 *considered to be part of the extramural budget of the*
19 *agency for the purpose of section 9 of the Small Busi-*
20 *ness Act (15 U.S.C. 638).*

21 *“(c) FEDERAL SHARE.—The Federal share of the cost*
22 *of a project carried out using funds subject to subsection*
23 *(a) shall be the share applicable under section 120(b), as*
24 *adjusted under subsection (d) of that section.*

1 “(d) *ADMINISTRATION OF SUMS.—Funds subject to*
2 *subsection (a) shall be—*

3 “(1) *combined and administered by the Sec-*
4 *retary as a single fund; and*

5 “(2) *available for obligation for the period de-*
6 *scribed in section 118(b)(2).*

7 “(e) *ELIGIBLE USE OF STATE PLANNING AND RE-*
8 *SEARCH FUNDS.—A State, in coordination with the Sec-*
9 *retary, may obligate funds made available to carry out this*
10 *section for any purpose authorized under section 506(a).*

11 **“§ 506. *International highway transportation out-***
12 ***reach program***

13 “(a) *ESTABLISHMENT.—The Secretary may establish*
14 *an international highway transportation outreach pro-*
15 *gram—*

16 “(1) *to inform the United States highway com-*
17 *munity of technological innovations in foreign coun-*
18 *tries that could significantly improve highway trans-*
19 *portation in the United States;*

20 “(2) *to promote United States highway transpor-*
21 *tation expertise, goods, and services in foreign coun-*
22 *tries; and*

23 “(3) *to increase transfers of United States high-*
24 *way transportation technology to foreign countries.*

1 “(b) *ACTIVITIES.*—Activities carried out under the
2 program may include—

3 “(1) the development, monitoring, assessment,
4 and dissemination in the United States of informa-
5 tion about highway transportation innovations in
6 foreign countries that could significantly improve
7 highway transportation in the United States;

8 “(2) research, development, demonstration, train-
9 ing, and other forms of technology transfer and ex-
10 change;

11 “(3) the provision to foreign countries, through
12 participation in trade shows, seminars, expositions,
13 and other similar activities, of information relating
14 to the technical quality of United States highway
15 transportation goods and services;

16 “(4) the offering of technical services of the Fed-
17 eral Highway Administration that cannot be readily
18 obtained from private sector firms in the United
19 States for incorporation into the proposals of those
20 firms undertaking highway transportation projects
21 outside the United States, if the costs of the technical
22 services will be recovered under the terms of the
23 project;

1 “(5) *the conduct of studies to assess the need for,*
2 *or feasibility of, highway transportation improve-*
3 *ments in foreign countries; and*

4 “(6) *the gathering and dissemination of informa-*
5 *tion on foreign transportation markets and indus-*
6 *tries.*

7 “(c) *COOPERATION.—The Secretary may carry out*
8 *this section in cooperation with any appropriate—*

9 “(1) *Federal, State, or local agency;*

10 “(2) *authority, association, institution, or orga-*
11 *nization;*

12 “(3) *for-profit or nonprofit corporation;*

13 “(4) *national or international entity;*

14 “(5) *foreign country; or*

15 “(6) *person.*

16 “(d) *FUNDS.—*

17 “(1) *CONTRIBUTIONS.—Funds available to carry*
18 *out this section shall include funds deposited by any*
19 *cooperating organization or person into a special ac-*
20 *count of the Treasury established for this purpose.*

21 “(2) *ELIGIBLE USES OF FUNDS.—The funds de-*
22 *posited into the account, and other funds available to*
23 *carry out this section, shall be available to cover the*
24 *cost of any activity eligible under this section, includ-*
25 *ing the cost of—*

1 “(A) promotional materials;

2 “(B) travel;

3 “(C) reception and representation expenses;

4 and

5 “(D) salaries and benefits.

6 “(3) REIMBURSEMENTS FOR SALARIES AND BEN-
7 EFITS.—Reimbursements for salaries and benefits of
8 Department of Transportation employees providing
9 services under this section shall be credited to the ac-
10 count.

11 “(e) REPORT—For each fiscal year, the Secretary shall
12 submit to the Committee on Environment and Public Works
13 of the Senate and the Committee on Transportation and
14 Infrastructure of the House of Representatives a report that
15 describes the destinations and individual trip costs of inter-
16 national travel conducted in carrying out activities de-
17 scribed in this section.

18 “§ 507. **Surface transportation-environmental cooper-**
19 **ative research program**

20 “(a) IN GENERAL.—The Secretary shall establish and
21 carry out a surface transportation-environmental coopera-
22 tive research program.

23 “(b) CONTENTS.—The program carried out under this
24 section may include research—

1 “(1) to develop more accurate models for evalu-
2 ating transportation control measures and transpor-
3 tation system designs that are appropriate for use by
4 State and local governments (including metropolitan
5 planning organizations) in designing implementation
6 plans to meet Federal, State, and local environmental
7 requirements;

8 “(2) to improve understanding of the factors that
9 contribute to the demand for transportation;

10 “(3) to develop indicators of economic, social,
11 and environmental performance of transportation sys-
12 tems to facilitate analysis of potential alternatives;

13 “(4) to meet additional priorities as determined
14 by the Secretary in the strategic planning process
15 under section 508; and

16 “(5) to refine, through the conduct of workshops,
17 symposia, and panels, and in consultation with stake-
18 holders (including the Department of Energy, the En-
19 vironmental Protection Agency, and other appro-
20 priate Federal and State agencies and associations)
21 the scope and research emphases of the program.

22 “(c) PROGRAM ADMINISTRATION.—The Secretary
23 shall—

24 “(1) administer the program established under
25 this section; and

1 “(2) ensure, to the maximum extent practicable,
2 *that—*

3 “(A) *the best projects and researchers are se-*
4 *lected to conduct research in the priority areas*
5 *described in subsection (b)—*

6 “(i) *on the basis of merit of each sub-*
7 *mitted proposal; and*

8 “(ii) *through the use of open sollicita-*
9 *tions and selection by a panel of appro-*
10 *priate experts;*

11 “(B) *a qualified, permanent core staff with*
12 *the ability and expertise to manage a large*
13 *multiyear budget is used;*

14 “(C) *the stakeholders are involved in the*
15 *governance of the program, at the executive, over-*
16 *all program, and technical levels, through the use*
17 *of expert panels and committees; and*

18 “(D) *there is no duplication of research ef-*
19 *fort between the program established under this*
20 *section and the new strategic highway research*
21 *program established under section 509.*

22 “(d) *NATIONAL ACADEMY OF SCIENCES.—The Sec-*
23 *retary may make grants to, and enter into cooperative*
24 *agreements with, the National Academy of Sciences to carry*
25 *out such activities relating to the research, technology, and*

1 *technology transfer activities described in subsections (b)*
2 *and (c) as the Secretary determines to be appropriate.*

3 **“§ 508. Surface transportation research technology de-**
4 ***ployment and strategic planning***

5 “(a) *PLANNING.*—

6 “(1) *ESTABLISHMENT.*—*The Secretary shall—*

7 “(A) *establish, in accordance with section*
8 *306 of title 5, a strategic planning process*
9 *that—*

10 “(i) *enhances effective implementation*
11 *of this section through the establishment in*
12 *accordance with paragraph (2) of the Sur-*
13 *face Transportation Research Technology*
14 *Advisory Committee; and*

15 “(ii) *focuses on surface transportation*
16 *research funded through paragraphs (1),*
17 *(2), (4), and (5) of section 2001(a) of the*
18 *Safe, Accountable, Flexible, and Efficient*
19 *Transportation Equity Act of 2004, taking*
20 *into consideration national surface trans-*
21 *portation system needs and intermodality*
22 *requirements;*

23 “(B) *coordinate Federal surface transpor-*
24 *tation research, technology development, and de-*
25 *ployment activities;*

1 “(C) at such intervals as are appropriate
2 and practicable, measure the results of those ac-
3 tivities and the ways in which the activities af-
4 fect the performance of the surface transportation
5 systems of the United States; and

6 “(D) ensure, to the maximum extent prac-
7 ticable, that planning and reporting activities
8 carried out under this section are coordinated
9 with all other surface transportation planning
10 and reporting requirements.

11 “(2) *SURFACE TRANSPORTATION RESEARCH*
12 *TECHNOLOGY ADVISORY COMMITTEE.*—

13 “(A) *ESTABLISHMENT.*—Not later than 90
14 days after the date of enactment of the *Safe, Ac-*
15 *countable, Flexible, and Efficient Transportation*
16 *Equity Act of 2004*, the Secretary shall establish
17 a committee to be known as the ‘Surface Trans-
18 portation Research Technology Advisory Com-
19 mittee’ (referred to in this section as the ‘Com-
20 mittee’).

21 “(B) *MEMBERSHIP.*—The Committee shall
22 be composed of 12 members appointed by the
23 Secretary—

24 “(i) each of which shall have expertise
25 in a particular area relating to Federal

1 *surface transportation programs, includ-*
2 *ing—*

3 *“(I) safety;*

4 *“(II) operations;*

5 *“(III) infrastructure (including*
6 *pavements and structures);*

7 *“(IV) planning and environment;*

8 *“(V) policy; and*

9 *“(VI) asset management; and*

10 *“(ii) of which—*

11 *“(I) 3 members shall be individ-*
12 *uals representing the Federal Govern-*
13 *ment;*

14 *“(II) 3 members—*

15 *“(aa) shall be exceptionally*
16 *qualified to serve on the Com-*
17 *mittee, as determined by the Sec-*
18 *retary, based on education, train-*
19 *ing, and experience; and*

20 *“(bb) shall not be officers or*
21 *employees of the United States;*

22 *“(III) 3 members—*

23 *“(aa) shall represent the*
24 *transportation industry (includ-*
25 *ing the pavement industry); and*

1 “(bb) shall not be officers or
2 employees of the United States;
3 and

4 “(IV) 3 members shall represent
5 State transportation departments from
6 3 different geographical regions of the
7 United States.

8 “(C) MEETINGS.—The advisory subcommit-
9 tees shall meet on a regular basis, but not less
10 than twice each year.

11 “(D) DUTIES.—The Committee shall pro-
12 vide to the Secretary, on a continuous basis, ad-
13 vice and guidance relating to—

14 “(i) the determination of surface trans-
15 portation research priorities;

16 “(ii) the improvement of the research
17 planning and implementation process;

18 “(iii) the design and selection of re-
19 search projects;

20 “(iv) the review of research results;

21 “(v) the planning and implementation
22 of technology transfer activities and

23 “(vi) the formulation of the surface
24 transportation research and technology de-

1 *ployment and deployment strategic plan re-*
2 *quired under subsection (c).*

3 “(E) *AUTHORIZATION OF APPROPRIA-*
4 *TIONS.—There is authorized to be appropriated*
5 *from the Highway Trust Fund (other than the*
6 *Mass Transit Account) to carry out this para-*
7 *graph \$200,000 for each fiscal year.*

8 “(b) *IMPLEMENTATION.—The Secretary shall—*

9 “(1) *provide for the integrated planning, coordi-*
10 *nation, and consultation among the operating admin-*
11 *istrations of the Department of Transportation, all*
12 *other Federal agencies with responsibility for surface*
13 *transportation research and technology development,*
14 *State and local governments, institutions of higher*
15 *education, industry, and other private and public sec-*
16 *tor organizations engaged in surface transportation-*
17 *related research and development activities; and*

18 “(2) *ensure that the surface transportation re-*
19 *search and technology development programs of the*
20 *Department do not duplicate other Federal, State, or*
21 *private sector research and development programs.*

22 “(c) *SURFACE TRANSPORTATION RESEARCH AND*
23 *TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—*

24 “(1) *IN GENERAL.—After receiving, and based*
25 *on, extensive consultation and input from stakeholders*

1 *representing the transportation community and the*
2 *Surface Transportation Research Advisory Com-*
3 *mittee, the Secretary shall, not later than 1 year after*
4 *the date of enactment of the Safe, Accountable, Flexi-*
5 *ble, and Efficient Transportation Equity Act of 2004,*
6 *complete, and shall periodically update thereafter, a*
7 *strategic plan for each of the core surface transpor-*
8 *tation research areas, including—*

9 *“(A) safety;*

10 *“(B) operations;*

11 *“(C) infrastructure (including pavements*
12 *and structures);*

13 *“(D) planning and environment;*

14 *“(E) policy; and*

15 *“(F) asset management.*

16 *“(2) COMPONENTS.—The strategic plan shall*
17 *specify—*

18 *“(A) surface transportation research objec-*
19 *tives and priorities;*

20 *“(B) specific surface transportation research*
21 *projects to be conducted;*

22 *“(C) recommended technology transfer ac-*
23 *tivities to promote the deployment of advances*
24 *resulting from the surface transportation re-*
25 *search conducted; and*

1 “(D) short- and long-term technology devel-
2 opment and deployment activities.

3 “(3) REVIEW AND SUBMISSION OF FINDINGS.—
4 The Secretary shall enter into a contract with the
5 Transportation Research Board of the National Acad-
6 emy of Sciences, on behalf of the Research and Tech-
7 nology Coordinating Committee of the National Re-
8 search Council, under which—

9 “(A) the Transportation Research Board
10 shall—

11 “(i) review the research and technology
12 planning and implementation process used
13 by Federal Highway Administration; and

14 “(ii) evaluate each of the strategic
15 plans prepared under this subsection—

16 “(I) to ensure that sufficient
17 stakeholder input is being solicited and
18 considered throughout the preparation
19 process; and

20 “(II) to offer recommendations
21 relevant to research priorities, project
22 selection, and deployment strategies;
23 and

24 “(B) the Secretary shall ensure that the Re-
25 search and Technology Coordinating Committee,

1 *in a timely manner, informs the Committee on*
2 *Environment and Public Works of the Senate*
3 *and the Committee on Transportation and Infra-*
4 *structure of the House of Representatives of the*
5 *findings of the review and evaluation under sub-*
6 *paragraph (A).*

7 “(4) *RESPONSES OF SECRETARY.*—*Not later*
8 *than 60 days after the date of completion of the stra-*
9 *tegic plan under this subsection, the Secretary shall*
10 *submit to the Committee on Environment and Public*
11 *Works of the Senate and the Committee on Transpor-*
12 *tation and Infrastructure of the House of Representa-*
13 *tives written responses to each of the recommenda-*
14 *tions of the Research and Technology Coordinating*
15 *Committee under paragraph (3)(A)(i)(II).*

16 “(d) *CONSISTENCY WITH GOVERNMENT PERFORM-*
17 *ANCE AND RESULTS ACT OF 1993.*—*The plans and reports*
18 *developed under this section shall be consistent with and*
19 *incorporated as part of the plans developed under section*
20 *306 of title 5 and sections 1115 and 1116 of title 31.*

21 “§ 509. ***New strategic highway research program***

22 “(a) *IN GENERAL.*—*The National Research Council*
23 *shall establish and carry out, through fiscal year 2009, a*
24 *new strategic highway research program.*

1 “(b) *BASIS; PRIORITIES.*—*With respect to the program*
2 *established under subsection (a)—*

3 “(1) *the program shall be based on—*

4 “(A) *National Research Council Special Re-*
5 *port No. 260, entitled ‘Strategic Highway Re-*
6 *search’; and*

7 “(B) *the results of the detailed planning*
8 *work subsequently carried out to scope the re-*
9 *search areas through National Cooperative Re-*
10 *search Program Project 20–58.*

11 “(2) *the scope and research priorities of the pro-*
12 *gram shall—*

13 “(A) *be refined through stakeholder input in*
14 *the form of workshops, symposia, and panels;*
15 *and*

16 “(B) *include an examination of—*

17 “(i) *the roles of highway infrastruc-*
18 *ture, drivers, and vehicles in fatalities on*
19 *public roads;*

20 “(ii) *high-risk areas and activities as-*
21 *sociated with the greatest numbers of high-*
22 *way fatalities;*

23 “(iii) *the roles of various levels of gov-*
24 *ernment agencies and non-governmental or-*
25 *ganizations in reducing highway fatalities*

1 *(including recommendations for methods of*
2 *strengthening highway safety partnerships);*

3 *“(iv) measures that may save the*
4 *greatest number of lives in the short- and*
5 *long-term;*

6 *“(v) renewal of aging infrastructure*
7 *with minimum impact on users of facilities;*

8 *“(vi) driving behavior and likely crash*
9 *causal factors to support improved counter-*
10 *measures;*

11 *“(vii) reduction in congestion due to*
12 *nonrecurring congestion;*

13 *“(viii) planning and designing of new*
14 *road capacity to meet mobility, economic,*
15 *environmental, and community needs;*

16 *“(3) the program shall consider, at a minimum,*
17 *the results of studies relating to the implementation*
18 *of the Strategic Highway Safety Plan prepared by the*
19 *American Association of State Highway and Trans-*
20 *portation Officials; and*

21 *“(4) the research results of the program, ex-*
22 *pressed in terms of technologies, methodologies, and*
23 *other appropriate categorizations, shall be dissemi-*
24 *nated to practicing engineers as soon as practicable*
25 *for their use.*

1 “(c) *PROGRAM ADMINISTRATION.*—*In carrying out the*
2 *program under this section, the National Research Council*
3 *shall ensure, to the maximum extent practicable, that—*

4 “(1) *the best projects and researchers are selected*
5 *to conduct research for the program and priorities de-*
6 *scribed in subsection (b)—*

7 “(A) *on the basis of the merit of each sub-*
8 *mitted proposal; and*

9 “(B) *through the use of open solicitations*
10 *and selection by a panel of appropriate experts;*

11 “(2) *the National Research Council acquires a*
12 *qualified, permanent core staff with the ability and*
13 *expertise to manage a large research program and*
14 *multiyear budget;*

15 “(3) *the stakeholders are involved in the govern-*
16 *ance of the program, at the executive, overall pro-*
17 *gram, and technical levels, through the use of expert*
18 *panels and committees; and*

19 “(4) *there is no duplication of research effort be-*
20 *tween the program established under this section and*
21 *the surface transportation-environment cooperative*
22 *research program established under section 507 or*
23 *any other research effort of the Department.*

24 “(d) *NATIONAL ACADEMY OF SCIENCES.*—*The Sec-*
25 *retary may make grants to, and enter into cooperative*

1 *agreements with, the National Academy of Sciences to carry*
2 *out such activities relating to research, technology, and tech-*
3 *nology transfer described in subsections (b) and (c) as the*
4 *Secretary determines to be appropriate.*

5 “(e) *REPORT ON IMPLEMENTATION OF RESULTS.*—

6 “(1) *IN GENERAL.*—*Not later than October 1,*
7 *2007, the Secretary shall enter into a contract with*
8 *the Transportation Research Board of the National*
9 *Academy of Sciences under which the Transportation*
10 *Research Board shall complete a report on the strate-*
11 *gies and administrative structure to be used for im-*
12 *plementation of the results of new strategic highway*
13 *research program.*

14 “(2) *COMPONENTS.*—*The report under para-*
15 *graph (1) shall include, with respect to the new stra-*
16 *tegic highway research program—*

17 “(A) *an identification of the most prom-*
18 *ising results of research under the program (in-*
19 *cluding the persons most likely to use the re-*
20 *sults);*

21 “(B) *a discussion of potential incentives for,*
22 *impediments to, and methods of, implementing*
23 *those results;*

1 “(C) *an estimate of costs that would be in-*
2 *curring in expediting implementation of those re-*
3 *sults; and*

4 “(D) *recommendations for the way in which*
5 *implementation of the results of the program*
6 *under this section should be conducted, coordi-*
7 *nated, and supported in future years, including*
8 *a discussion of the administrative structure and*
9 *organization best suited to carry out those re-*
10 *sponsibilities.*

11 “(3) *CONSULTATION.—In developing the report,*
12 *the Transportation Research Board shall consult with*
13 *a wide variety of stakeholders, including—*

14 “(A) *the American Association of State*
15 *highway Officials;*

16 “(B) *the Federal Highway Administration;*
17 *and*

18 “(C) *the Surface Transportation Research*
19 *Technology Advisory Committee.*

20 “(4) *SUBMISSION.—Not later than February 1,*
21 *2009, the Secretary shall submit to the Committee on*
22 *Environment and Public Works of the Senate and the*
23 *Committee on Transportation and Infrastructure of*
24 *the House of Representatives the report under this*
25 *subsection.*

1 **“§ 510. University transportation centers**

2 “(a) *CENTERS.*—

3 “(1) *IN GENERAL.*—*During fiscal year 2004, the*
4 *Secretary shall provide grants to 40 nonprofit institu-*
5 *tions of higher learning (or consortia of institutions*
6 *of higher learning) to establish centers to address*
7 *transportation design, management, research, develop-*
8 *ment, and technology matters, especially the edu-*
9 *cation and training of greater numbers of individuals*
10 *to enter into the professional field of transportation.*

11 “(2) *DISTRIBUTION OF CENTERS.*—*Not more*
12 *than 1 university transportation center (or lead uni-*
13 *versity in a consortia of institutions of higher learn-*
14 *ing), other than a center or university selected*
15 *through a competitive process, may be located in any*
16 *State.*

17 “(3) *IDENTIFICATION OF CENTERS.*—*The univer-*
18 *sity transportation centers established under this sec-*
19 *tion shall—*

20 “(A) *comply with applicable requirements*
21 *under subsection (c); and*

22 “(B) *be located at the institutions of higher*
23 *learning specified in paragraph (4).*

24 “(4) *IDENTIFICATION OF GROUPS.*—*For the pur-*
25 *pose of making grants under this subsection, the fol-*
26 *lowing grants are identified:*

1 “(A) *GROUP A.*—Group A shall consist of
2 the 10 regional centers selected under subsection
3 (b).

4 “(B) *GROUP B.*—Group B shall consist of
5 the following:

6 “(i) [_____].

7 “(ii) [_____].

8 “(iii) [_____].

9 “(iv) [_____].

10 “(v) [_____].

11 “(vi) [_____].

12 “(vii) [_____].

13 “(viii) [_____].

14 “(ix) [_____].

15 “(x) [_____].

16 “(xi) [_____].

17 “(C) *GROUP C.*—Group C shall consist of
18 the following:

19 “(i) [_____].

20 “(ii) [_____].

21 “(iii) [_____].

22 “(iv) [_____].

23 “(v) [_____].

24 “(vi) [_____].

25 “(vii) [_____].

1 “(viii) [_____].

2 “(ix) [_____].

3 “(x) [_____].

4 “(xi) [_____].

5 “(D) *GROUP D.*—Group D shall consist of
6 *the following:*

7 “(i) [_____].

8 “(ii) [_____].

9 “(iii) [_____].

10 “(iv) [_____].

11 “(v) [_____].

12 “(vi) [_____].

13 “(vii) [_____].

14 “(viii) [_____].

15 “(b) *REGIONAL CENTERS.*—

16 “(1) *IN GENERAL.*—Not later than September 30,
17 2004, the Secretary shall provide to nonprofit institu-
18 tions of higher learning (or consortia of institutions
19 of higher learning) grants to be used during the pe-
20 riod of fiscal years 2005 through 2009 to establish
21 and operate 1 university transportation center in
22 each of the 10 Federal regions that comprise the
23 Standard Federal Regional Boundary System.

24 “(2) *SELECTION OF REGIONAL CENTERS.*—

1 “(A) *PROPOSALS.*—*In order to be eligible to*
2 *receive a grant under this subsection, an institu-*
3 *tion described in paragraph (1) shall submit to*
4 *the Secretary a proposal, in response to any re-*
5 *quest for proposals that shall be made by the*
6 *Secretary, that is in such form and contains*
7 *such information as the Secretary shall pre-*
8 *scribe.*

9 “(B) *REQUEST SCHEDULE.*—*The Secretary*
10 *shall request proposals once for the period of fis-*
11 *cal years 2004 through 2006 and once for the pe-*
12 *riod of fiscal years 2007 through 2009.*

13 “(C) *ELIGIBILITY.*—*Any institution of*
14 *higher learning (or consortium of institutions of*
15 *higher learning) that meets the criteria described*
16 *in subsection (c) (including any institution iden-*
17 *tified in subsection (a)(4)) may apply for a*
18 *grant under this subsection.*

19 “(D) *SELECTION CRITERIA.*—*The Secretary*
20 *shall select each recipient of a grant under this*
21 *subsection through a competitive process on the*
22 *basis of—*

23 “(i) *the location of the center within*
24 *the Federal region to be served;*

1 “(ii) the demonstrated research capa-
2 bilities and extension resources available to
3 the recipient to carry out this section;

4 “(iii) the capability of the recipient to
5 provide leadership in making national and
6 regional contributions to the solution of im-
7 mediate and long-range transportation
8 problems;

9 “(iv) the demonstrated ability of the
10 recipient to disseminate results of transpor-
11 tation research and education programs
12 through a statewide or regionwide con-
13 tinuing education program; and

14 “(v) the strategic plan that the recipi-
15 ent proposes to carry out using funds from
16 the grant.

17 “(E) SELECTION PROCESS.—In selecting the
18 recipients of grants under this subsection, the
19 Secretary shall consult with, and consider the
20 advice of—

21 “(i) the Research and Special Pro-
22 grams Administration;

23 “(ii) the Federal Highway Administra-
24 tion; and

1 “(iii) *the Federal Transit Administra-*
2 *tion.*

3 “(c) *CENTER REQUIREMENTS.—*

4 “(1) *IN GENERAL.—With respect to a university*
5 *transportation center established under subsection (a)*
6 *or (b), the institution or consortium that receives a*
7 *grant to establish the center—*

8 “(A) *shall annually contribute at least*
9 *\$250,000 to the operation and maintenance of*
10 *the center, except that payment by the institu-*
11 *tion or consortium of the salary required for*
12 *transportation-related faculty and staff for a pe-*
13 *riod greater than 90 days may not be counted*
14 *against that contribution;*

15 “(B) *shall have established, as of the date of*
16 *receipt of the grant, undergraduate or graduate*
17 *programs in—*

18 “(i) *civil engineering;*

19 “(ii) *transportation engineering;*

20 “(iii) *transportation systems manage-*
21 *ment and operations; or*

22 “(iv) *any other field significantly re-*
23 *lated to surface transportation systems, as*
24 *determined by the Secretary; and*

1 “(C) not later than 120 days after the date
2 on which the institution or consortium receives
3 notice of selection as a site for the establishment
4 of a university transportation center under this
5 section, shall submit to the Secretary a 6-year
6 program plan for the university transportation
7 center that includes, with respect to the center—

8 “(i) a description of the purposes of
9 programs to be conducted by the center;

10 “(ii) a description of the under-
11 graduate and graduate transportation edu-
12 cation efforts to be carried out by the center;

13 “(iii) a description of the nature and
14 scope of research to be conducted by the cen-
15 ter;

16 “(iv) a list of personnel, including the
17 roles and responsibilities of those personnel
18 within the center; and

19 “(v) a detailed budget, including the
20 amount of contributions by the institution
21 or consortium to the center; and

22 “(D) shall establish an advisory committee
23 that—

24 “(i) is composed of a representative
25 from each of the State transportation de-

1 *partment of the State in which the institu-*
2 *tion or consortium is located, the Depart-*
3 *ment of Transportation, and the institution*
4 *or consortia, as appointed by those respec-*
5 *tive entities;*

6 *“(ii) in accordance with paragraph*
7 *(2), shall review and approve or disapprove*
8 *the plan of the institution or consortium*
9 *under subparagraph (C); and*

10 *“(iii) shall, to the maximum extent*
11 *practicable, ensure that the proposed re-*
12 *search to be carried out by the university*
13 *transportation center will contribute to the*
14 *national highway research and technology*
15 *agenda, as periodically updated by the Sec-*
16 *retary, in consultation with stakeholders*
17 *representing the highway community.*

18 *“(2) PEER REVIEW.—*

19 *“(A) IN GENERAL.—The Secretary shall re-*
20 *quire peer review for each report on research car-*
21 *ried out using funds made available for this sec-*
22 *tion.*

23 *“(B) PURPOSES OF PEER REVIEW.—Peer*
24 *review of a report under this section shall be car-*
25 *ried out to evaluate—*

1 “(i) the relevance of the research de-
2 scribed in the report with respect to the
3 strategic plan under, and the goals of, this
4 section;

5 “(ii) the research covered by the report,
6 and to recommend modifications to indi-
7 vidual project plans;

8 “(iii) the results of the research before
9 publication of those results; and

10 “(iv) the overall outcomes of the re-
11 search.

12 “(C) *INTERNET AVAILABILITY.*—Each report
13 under this section that is received by the Sec-
14 retary shall be published—

15 “(i) by the Secretary, on the Internet
16 website of the Department of Transpor-
17 tation; and

18 “(ii) by the University Transportation
19 Center.

20 “(3) *APPROVAL OF PLANS*—A plan of an institu-
21 tion or consortium described in paragraph (1)(C)
22 shall not be submitted to the Secretary until such
23 time as the advisory committee established under
24 paragraph (1)(D) reviews and approves the plan.

1 “(4) *FAILURE TO COMPLY.*—*If a recipient of a*
2 *grant under this subsection fails to submit a program*
3 *plan acceptable to the Secretary and in accordance*
4 *with paragraph (1)(C)—*

5 “(A) *the recipient shall forfeit the grant and*
6 *the selection of the recipient as a site for the es-*
7 *tablishment of a university transportation cen-*
8 *ter; and*

9 “(B) *the Secretary shall select a replace-*
10 *ment recipient for the forfeited grant.*

11 “(5) *APPLICABILITY.*—*This subsection does not*
12 *apply to any research funds received in accordance*
13 *with a competitive contract offered and entered into*
14 *by the Federal Highway Administration.*

15 “(d) *OBJECTIVES.*—*Each university transportation*
16 *center established under subsection (a) or (b) shall carry*
17 *out—*

18 “(1) *undergraduate or graduate education pro-*
19 *grams that include—*

20 “(A) *multidisciplinary coursework; and*

21 “(B) *opportunities for students to partici-*
22 *pate in research;*

23 “(2) *basic and applied research, the results and*
24 *products of which shall be judged by peers or other ex-*

1 *perts in the field so as to advance the body of knowl-*
2 *edge in transportation; and*

3 *“(3) an ongoing program of technology transfer*
4 *that makes research results available to potential*
5 *users in such form as will enable the results to be im-*
6 *plemented, used, or otherwise applied.*

7 *“(e) MAINTENANCE OF EFFORT.—To be eligible to re-*
8 *ceive a grant under this section, an applicant shall—*

9 *“(1) enter into an agreement with the Secretary*
10 *to ensure that the applicant will maintain total ex-*
11 *penditures from all other sources to establish and op-*
12 *erate a university transportation center and related*
13 *educational and research activities at a level that is*
14 *at least equal to the average level of those expenditures*
15 *during the 2 fiscal years before the date on which the*
16 *grant is provided;*

17 *“(2) provide the annual institutional contribu-*
18 *tion required under subsection (c)(1); and*

19 *“(3) submit to the Secretary, in a timely man-*
20 *ner, for use by the Secretary in the preparation of the*
21 *annual research report under section 508(c)(5) of title*
22 *23, an annual report on the projects and activities of*
23 *the university transportation center for which funds*
24 *are made available under section 2001 of the Safe,*
25 *Accountable, Flexible, and Efficient Transportation*

1 *Equity Act of 2004 that contains, at a minimum, for*
2 *the fiscal year covered by the report, a description*
3 *of—*

4 *“(A) the goals of the center;*

5 *“(B) the educational activities carried out*
6 *by the center (including a detailed summary of*
7 *the budget for those educational activities);*

8 *“(C) teaching activities of faculty at the*
9 *center;*

10 *“(D) each research project carried out by*
11 *the center, including—*

12 *“(i) the identity and location of each*
13 *investigator working on a research project;*

14 *“(ii) the overall funding amount for*
15 *each research project (including the*
16 *amounts expended for the project as of the*
17 *date of the report);*

18 *“(iii) the current schedule for each re-*
19 *search project; and*

20 *“(iv) the results of each research*
21 *project through the date of submission of the*
22 *report, with particular emphasis on results*
23 *for the fiscal year covered by the report; and*

24 *“(E) overall technology transfer and imple-*
25 *mentation efforts of the center.*

1 “(f) *PROGRAM COORDINATION.*—*The Secretary shall—*

2 “(1) *coordinate the research, education, training,*
3 *and technology transfer activities carried out by re-*
4 *ipients of grants under this section; and*

5 “(2) *establish and operate a clearinghouse for,*
6 *and disseminate, the results of those activities.*

7 “(g) *FUNDING.*—

8 “(1) *NUMBER AND AMOUNT OF GRANTS.*—*The*
9 *Secretary shall make the following grants under this*
10 *subsection:*

11 “(A) *GROUP A.*—*For each of fiscal years*
12 *2004 through 2009, the Secretary shall make a*
13 *grant in the amount of \$20,000,000 to each of*
14 *the institutions in group A (as described in sub-*
15 *section (a)(4)(A)).*

16 “(B) *GROUP B.*—*The Secretary shall make*
17 *a grant to each of the institutions in group B (as*
18 *described in subsection (a)(4)(B)) in the amount*
19 *of—*

20 “(i) *\$4,000,000 for each of fiscal years*
21 *2004 and 2005; and*

22 “(ii) *\$6,000,000 for each of fiscal years*
23 *2006 and 2007.*

24 “(C) *GROUP C.*—*For each of fiscal years*
25 *2004 through 2007, the Secretary shall make a*

1 *grant in the amount of \$10,000,000 to each of*
2 *the institutions in group C (as described in sub-*
3 *section (a)(4)(C)).*

4 “(D) *GROUP D.—For each of fiscal years*
5 *2004 through 2009, the Secretary shall make a*
6 *grant in the amount of \$25,000,000 to each of*
7 *the institutions in group D (as described in sub-*
8 *section (a)(4)(D)).*

9 “(E) *LIMITED GRANTS FOR GROUPS B AND*
10 *C.—For each of fiscal years 2008 and 2009, of*
11 *the institutions classified in groups B and C (as*
12 *described in subsection (a)(4)(B)), the Secretary*
13 *shall select and make a grant in the amount of*
14 *\$10,000,000 to each of not more than 15 institu-*
15 *tions.*

16 “(2) *USE OF FUNDS—*

17 “(A) *IN GENERAL.—Of the funds made*
18 *available for a fiscal year to a university trans-*
19 *portation center established under subsection (a)*
20 *or (b)—*

21 “(i) *not less than \$250,000 shall be*
22 *used to establish and maintain new faculty*
23 *positions for the teaching of undergraduate,*
24 *transportation-related courses;*

1 “(ii) not more than \$500,000 for the
2 fiscal year, or \$1,000,000 in the aggregate,
3 may be used to construct or improve trans-
4 portation-related laboratory facilities; and

5 “(iii) not more than \$300,000 for the
6 fiscal year may be used for student intern-
7 ships of not more than 180 days in dura-
8 tion to enable students to gain experience by
9 working on transportation projects as in-
10 terns with design or construction firms.

11 “(B) *FACILITIES AND ADMINISTRATION*
12 *FEE.*—Not more than 10 percent of any grant
13 made available to a university transportation
14 center (or any institution or consortium that es-
15 tablishes such a center) for a fiscal year may be
16 used to pay to the appropriate nonprofit institu-
17 tion of higher learning any administration and
18 facilities fee (or any similar overhead fee) for the
19 fiscal year.

20 “(3) *LIMITATION ON AVAILABILITY OF FUNDS.*—
21 Funds made available under this subsection shall re-
22 main available for obligation for a period of 2 years
23 after September 30 of the fiscal year for which the
24 funds are authorized.

1 **“§511. Multistate corridor operations and manage-**
2 **ment**

3 “(a) *IN GENERAL.—The Secretary shall encourage*
4 *multistate cooperative agreements, coalitions, or other ar-*
5 *rangements to promote regional cooperation, planning, and*
6 *shared project implementation for programs and projects*
7 *to improve transportation system management and oper-*
8 *ations.*

9 “(b) *INTERSTATE ROUTE I-95 CORRIDOR COALITION*
10 *TRANSPORTATION SYSTEMS MANAGEMENT AND OPER-*
11 *ATIONS.—*

12 “(1) *IN GENERAL.—The Secretary shall make*
13 *grants under this subsection to States to continue in-*
14 *telligent transportation system management and op-*
15 *erations in the Interstate Route I-95 corridor coal-*
16 *ition region initiated under the Intermodal Surface*
17 *Transportation Efficiency Act of 1991 (Public Law*
18 *102-240).*

19 “(2) *FUNDING.—Of the amounts made available*
20 *under section 2001(a)(4) of the Safe, Accountable,*
21 *Flexible, and Efficient Transportation Equity Act of*
22 *2004, the Secretary shall use to carry out this sub-*
23 *section—*

24 “(A) \$8,000,000 for fiscal year 2004;

25 “(B) \$10,000,000 for fiscal year 2005;

26 “(C) \$12,000,000 for fiscal year 2006;

1 “(D) \$12,000,000 for fiscal year 2007;

2 “(E) \$12,000,000 for fiscal year 2008; and

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

4 **“§ 512. Transportation analysis simulation system**

5 “(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

6 “(1) IN GENERAL.—The Secretary shall continue
7 the deployment of the advanced transportation model
8 known as the ‘Transportation Analysis Simulation
9 System’ (referred to in this section as ‘TRANSIMS’)
10 developed by the Los Alamos National Laboratory.

11 “(2) REQUIREMENTS AND CONSIDERATIONS.—In
12 carrying out paragraph (1), the Secretary shall—

13 “(A) further improve TRANSIMS to reduce
14 the cost and complexity of using the
15 TRANSIMS;

16 “(B) continue development of TRANSIMS
17 for applications to facilitate transportation
18 planning, regulatory compliance, and response to
19 natural disasters and other transportation dis-
20 ruptions; and

21 “(C) assist State transportation depart-
22 ments and metropolitan planning organizations,
23 especially smaller metropolitan planning organi-
24 zations, in the implementation of TRANSIMS
25 by providing training and technical assistance.

1 “(b) *ELIGIBLE ACTIVITIES.*—*The Secretary shall use*
2 *funds made available to carry out this section—*

3 “(1) *to further develop TRANSIMS for addi-*
4 *tional applications, including—*

5 “(A) *congestion analyses;*

6 “(B) *major investment studies;*

7 “(C) *economic impact analyses;*

8 “(D) *alternative analyses;*

9 “(E) *freight movement studies;*

10 “(F) *emergency evacuation studies;*

11 “(G) *port studies; and*

12 “(H) *airport access studies;*

13 “(2) *provide training and technical assistance*
14 *with respect to the implementation and application of*
15 *TRANSIMS to States, local governments, and metro-*
16 *politan planning organizations with responsibility for*
17 *travel modeling;*

18 “(3) *develop methods to simulate the national*
19 *transportation infrastructure as a single, integrated*
20 *system for the movement of individuals and goods;*

21 “(4) *provide funding to State transportation de-*
22 *partments and metropolitan planning organizations*
23 *for implementation of TRANSIMS.*

24 “(c) *ALLOCATION OF FUNDS.*—*Of the funds made*
25 *available to carry out this section for each fiscal year, not*

1 *less than 15 percent shall be allocated for activities de-*
2 *scribed in subsection (b)(3).*

3 “(d) *FUNDING.*—*Of the amounts made available under*
4 *section 2001(a) of the Safe, Accountable, Flexible, and Effi-*
5 *cient Transportation Equity Act of 2004 for each of fiscal*
6 *years 2004 through 2009, the Secretary shall use \$1,000,000*
7 *to carry out this section.*

8 “(e) *AVAILABILITY OF FUNDS.*—*Funds made available*
9 *under this section shall be available to the Secretary*
10 *through the Transportation Planning, Research, and Devel-*
11 *opment Account of the Office of the Secretary.”.*

12 (b) *OTHER UNIVERSITY FUNDING.*—*No university*
13 *(other than university transportation centers specified in*
14 *section 510 of title 23, United States Code (as added by*
15 *subsection (a)) shall receive funds made available under sec-*
16 *tion 2001 to carry out research unless the university is se-*
17 *lected to receive the funds—*

18 (1) *through a competitive process that incor-*
19 *porates merit-based peer review; and*

20 (2) *based on a proposal submitted to the Sec-*
21 *retary by the university in response to a request for*
22 *proposals issued by the Secretary.*

23 (c) *CONFORMING AMENDMENT.*—*Section 5505 of title*
24 *49, United States Code, is repealed.*

1 **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL**
2 **ANALYSIS EFFORTS.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *ADMINISTRATION.—The term “Administra-*
5 *tion” means the Federal Highway Administration.*

6 (2) *BOARD.—The term “Board” means the*
7 *Transportation Research Board of the National Acad-*
8 *emy of Sciences.*

9 (3) *BUREAU.—The term “Bureau” means the*
10 *Bureau of Transportation Statistics.*

11 (4) *DEPARTMENT.—The term “Department”*
12 *means the Department of Transportation.*

13 (5) *SECRETARY.—The term “Secretary” means*
14 *the Secretary of Transportation.*

15 (b) *PRIORITY AREAS OF EFFORT.—*

16 (1) *STATISTICAL STANDARDS.—The Secretary*
17 *shall direct the Bureau to assume the role of the lead*
18 *agency in working with other agencies of the Depart-*
19 *ment to establish, by not later the date that is 1 year*
20 *after the date of enactment of this Act, statistical*
21 *standards for the Department.*

22 (2) *STATISTICAL ANALYSIS EFFORT.—*

23 (A) *IN GENERAL.—The Bureau shall pro-*
24 *vide to the Secretary, on an annual basis, an*
25 *overview of the level of effort expended on statis-*

1 *tical analyses by each agency within the Depart-*
2 *ment.*

3 *(B) DUTY OF AGENCIES.—Each agency of*
4 *the Department shall provide to the Bureau such*
5 *information as the Bureau may require in car-*
6 *rying out subparagraph (A).*

7 *(3) NATIONAL SECURITY.—The Bureau shall—*

8 *(A) conduct a study of the ways in which*
9 *transportation statistics are and may be used for*
10 *the purpose of national security; and*

11 *(B) submit to the Transportation Security*
12 *Administration recommendations for means by*
13 *which the use of transportation statistics for the*
14 *purpose of national security may be improved.*

15 *(4) MODERNIZATION.—The Bureau shall develop*
16 *new protocols for adapting data collection and deliv-*
17 *ery efforts in existence as of the date of enactment of*
18 *this Act to deliver information in a more timely and*
19 *frequent fashion.*

20 *(c) STUDY.—*

21 *(1) IN GENERAL.—Not later than 90 days after*
22 *the date of enactment of this Act, the Secretary shall*
23 *provide a grant to, or enter into a cooperative agree-*
24 *ment or contract with, the Board for the conduct of*
25 *a study of the data collection and statistical analysis*

1 *efforts of the Department with respect to the modes of*
2 *surface transportation for which funds are made*
3 *available under this Act.*

4 (2) *PURPOSE.*—*The purpose of the study shall be*
5 *to provide to the Department information for use by*
6 *agencies of the Department in providing to surface*
7 *transportation agencies and individuals engaged in*
8 *the surface transportation field higher quality, and*
9 *more relevant and timely, data, statistical analyses,*
10 *and products.*

11 (3) *CONTENT.*—*The study shall include—*

12 (A) *an examination and analysis of the ef-*
13 *forts, analyses, and products (with respect to*
14 *usefulness and policy relevance) of the Bureau as*
15 *of the date of the study, as compared with the*
16 *duties of the Bureau specified in subsections (c)*
17 *through (f) of section 111 of title 49, United*
18 *States Code;*

19 (B) *an examination and analysis of data*
20 *collected by, methods of data collection of, and*
21 *analyses performed by, agencies within the De-*
22 *partment; and*

23 (C) *recommendations relating to—*

1 *(i) the future efforts of the Department*
2 *in the area of surface transportation with*
3 *respect to—*

4 *(I) types of data collected;*

5 *(II) methods of data collection;*

6 *(III) types of analyses performed;*

7 *and*

8 *(IV) products made available by*
9 *the Secretary to the transportation*
10 *community and Congress;*

11 *(ii) the means by which the Depart-*
12 *ment may cooperate with State transpor-*
13 *tation departments to provide technical as-*
14 *sistance in the use of data collected by traf-*
15 *fic operations centers; and*

16 *(iii) duplication of efforts within the*
17 *Department, including ways in which—*

18 *(I) the duplication may be re-*
19 *duced or eliminated; and*

20 *(II) each agency of the Depart-*
21 *ment may cooperate with, and com-*
22 *plement the efforts of, the others.*

23 (4) *CONSULTATION.*—*In conducting the study,*
24 *the Board shall consult with such stakeholders, agen-*

1 *cies, and other entities as the Board considers to be*
2 *appropriate.*

3 (5) *REPORT.*—*Not later than 1 year after the*
4 *date on which a grant is provided, or a cooperative*
5 *agreement or contract is entered into, for a study*
6 *under paragraph (1)—*

7 (A) *the Board shall submit to the Secretary,*
8 *the Committee on Environment and Public*
9 *Works of the Senate, and the Committee on*
10 *Transportation and Infrastructure of the House*
11 *of Representatives a final report on the results of*
12 *the study; and*

13 (B) *the results of the study shall be pub-*
14 *lished—*

15 (i) *by the Secretary, on the Internet*
16 *website of the Department; and*

17 (ii) *by the Board, on the Internet*
18 *website of the Board.*

19 (6) *IMPLEMENTATION OF RESULTS.*—*The Bureau*
20 *shall, to the maximum extent practicable, implement*
21 *any recommendations made with respect to the results*
22 *of the study under this subsection.*

23 (7) *COMPLIANCE.*—

1 (A) *IN GENERAL.*—*The Comptroller General*
2 *of the United States shall conduct a review of the*
3 *study under this subsection.*

4 (B) *NONCOMPLIANCE.*—*If the Comptroller*
5 *General of the United States determines that the*
6 *Bureau failed to conduct the study under this*
7 *subsection, the Bureau shall be ineligible to re-*
8 *ceive funds from the Highway Trust Fund until*
9 *such time as the Bureau conducts the study*
10 *under this subsection.*

11 (d) *CONFORMING AMENDMENTS.*—

12 (1) *Section 111 of title 49, United States Code,*
13 *is amended—*

14 (A) *by redesignating subsection (k) as sub-*
15 *section (m);*

16 (B) *by inserting after subsection (j) the fol-*
17 *lowing:*

18 “(k) *ANNUAL REPORT.*—

19 “(1) *IN GENERAL.*—*For fiscal year 2005 and*
20 *each fiscal year thereafter, the Bureau shall prepare*
21 *and submit to the Secretary an annual report that—*

22 (A) *describes progress made in responding*
23 *to study recommendations for the fiscal year;*
24 *and*

1 “(B) summarizes the activities and expendi-
2 ture of funds by the Bureau for the fiscal year.

3 “(2) AVAILABILITY.—The Bureau shall—

4 “(A) make the report described in para-
5 graph (1) available to the public; and

6 “(B) publish the report on the Internet
7 website of the Bureau.

8 “(3) COMBINATION OF REPORTS.—The report re-
9 quired under paragraph (1) may be included in or
10 combined with the Transportation Statistics Annual
11 Report required by subsection (j).

12 “(l) EXPENDITURE OF FUNDS.—Funds from the High-
13 way Trust Fund (other than the Mass Transit Account)
14 that are authorized to be appropriated, and made available,
15 in accordance with section 2001(a)(3) of the Safe, Account-
16 able, Flexible, and Efficient Transportation Equity Act of
17 2004 shall be used only for the collection and statistical
18 analysis of information relating to surface transportation
19 systems.”; and

20 (C) in subsection (m) (as redesignated by
21 subparagraph (A)), by inserting “surface trans-
22 portation” after “sale of”.

23 (2) The analysis for chapter 55 of title 49,
24 United States Code, is amended by striking the item
25 relating to section 5505 and inserting the following:

“5505. University transportation centers.”.

1 **SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EX-**
2 **CELLENCE.**

3 (a) *ESTABLISHMENT.*—*The Secretary shall establish*
4 *the centers for surface transportation excellence described in*
5 *subsection (b) to promote high-quality outcomes in support*
6 *of strategic national programs and activities, including—*

- 7 (1) *the environment;*
8 (2) *operations;*
9 (3) *surface transportation safety;*
10 (4) *project finance; and*
11 (5) *asset management.*

12 (b) *CENTERS.*—*The centers for surface transportation*
13 *excellence referred to in subsection (a) are—*

- 14 (1) *a Center for Environmental Excellence to*
15 *provide technical assistance, information sharing of*
16 *best practices, and training in the use of tools and de-*
17 *cision-making processes to assist States in planning*
18 *and delivering environmentally-sound surface trans-*
19 *portation projects;*
20 (2) *a Center for Operations Excellence to provide*
21 *support for an integrated and coordinated national*
22 *program for implementing operations in planning*
23 *and management (including standards development)*
24 *for the transportation system in the United States;*

1 (3) a Center for Excellence in Surface Transpor-
2 tation Safety to implement a program of support for
3 State transportation departments, including—

4 (A) the maintenance of an Internet site to
5 provide critical information on safety programs;

6 (B) the provision of technical assistance to
7 support a lead State transportation department
8 for each of the safety emphasis areas (as identi-
9 fied by the Secretary); and

10 (C) the provision of training and education
11 to enhance knowledge of personnel of State trans-
12 portation departments in support of safety high-
13 way goals;

14 (4) a Center for Excellence in Project Finance—

15 (A) to provide support to State transpor-
16 tation departments in the development of finance
17 plans and project oversight tools; and

18 (B) to develop and offer training in state-
19 of-the-art financing methods to advance projects
20 and leverage funds; and

21 (5) a Center for Excellence in Asset Management
22 to develop and conduct research, provide training and
23 education, and disseminate information on the bene-
24 fits and tools for asset management.

25 (c) PROGRAM ADMINISTRATION.—

1 (1) *IN GENERAL.*—*Before funds authorized under*
2 *this section for fiscal years 2005 through 2009 are ob-*
3 *ligated, the Secretary shall review and approve a*
4 *multiyear strategic plan to be submitted by each of*
5 *the centers.*

6 (2) *TIMING.*—*The plan shall be submitted before*
7 *the beginning of fiscal year 2005 and, subsequently,*
8 *shall be annually updated.*

9 (3) *CONTENT.*—*The plan shall include—*

10 (A) *a list of research and technical assist-*
11 *ance projects and objectives; and*

12 (B) *a description of any other technology*
13 *transfer activities, including a summary of*
14 *training efforts.*

15 (4) *COOPERATION AND COMPETITION.*—

16 (A) *IN GENERAL.*—*The Secretary shall*
17 *carry out this section by making grants to, or*
18 *entering into contracts, cooperative agreements,*
19 *and other transactions with—*

20 (i) *the National Academy of Sciences;*

21 (ii) *the American Association of State*

22 *Highway and Transportation Officials;*

23 (iii) *planning organizations;*

24 (iv) *a Federal laboratory;*

25 (v) *a State agency;*

1 (vi) an authority, association, institu-
2 tion, or organization; or

3 (vii) a for-profit or nonprofit corpora-
4 tion.

5 (B) *COMPETITION; REVIEW.*—All parties en-
6 tering into contracts, cooperative agreements, or
7 other transactions with the Secretary, or receiv-
8 ing grants, to perform research or provide tech-
9 nical assistance under this section shall be se-
10 lected, to the maximum extent practicable—

11 (i) on a competitive basis; and

12 (ii) on the basis of the results of peer
13 review of proposals submitted to the Sec-
14 retary.

15 (5) *NONDUPLICATION.*—The Secretary shall en-
16 sure that activities conducted by each of the centers
17 do not duplicate, and to the maximum extent prac-
18 ticable, are integrated and coordinated with similar
19 activities conducted by the Federal Highway Admin-
20 istration, the local technical assistance program, uni-
21 versity transportation centers, and other research ef-
22 forts supported with funds authorized by this title.

23 (d) *ALLOCATIONS.*—

24 (1) *IN GENERAL.*—For each of fiscal years 2004
25 through 2009, of the funds made available under sec-

1 *tion 2001(a)(1)(A), the Secretary shall set aside*
2 *\$10,000,000 to carry out this section.*

3 (2) *ALLOCATION OF FUNDS.—Of the funds made*
4 *available under paragraph (1)—*

5 (A) *20 percent shall be allocated to the Cen-*
6 *ter for Environmental Excellence established*
7 *under subsection (b)(1);*

8 (B) *30 percent shall be allocated to the Cen-*
9 *ter for Operations Excellence established under*
10 *subsection (b)(2);*

11 (C) *20 percent shall be allocated to the Cen-*
12 *ter for Excellence in Surface Transportation*
13 *Safety established under subsection (b)(3);*

14 (D) *10 percent shall be allocated to the Cen-*
15 *ter for Excellence in Project Finance established*
16 *under subsection (b)(4); and*

17 (E) *20 percent shall be allocated to the Cen-*
18 *ter for Excellence in Asset Management estab-*
19 *lished under subsection (b)(5).*

20 (3) *APPLICABILITY OF TITLE 23.—Funds made*
21 *available under this section shall be available for obli-*
22 *gation in the same manner as if the funds were ap-*
23 *portioned under chapter 1 of title 23, United States*
24 *Code, except that the Federal share shall be 100 per-*
25 *cent.*

1 **SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY**
2 **GRANTS.**

3 (a) *GRANTS.*—*The Secretary shall provide grants for*
4 *the purpose of conducting a comprehensive, in-depth motor-*
5 *cycle crash causation study that employs the common inter-*
6 *national methodology for in-depth motorcycle accident in-*
7 *vestigation of the Organization for Economic Cooperation*
8 *and Development.*

9 (b) *FUNDING.*—*Of the amounts made available under*
10 *section 2001(a)(3), \$1,500,000 for each of fiscal years 2004*
11 *and 2005 shall be available to carry out this section.*

12 **SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION**
13 **AND DEMONSTRATION PROGRAM.**

14 (a) *IN GENERAL.*—*Section 5117(b)(3) of the Transpor-*
15 *tation Equity Act for the 21st Century (112 Stat. 449; 112*
16 *Stat. 864; 115 Stat. 2330) is amended—*

17 (1) *in subparagraph (B)—*

18 (A) *in clause (i)—*

19 (i) *in the first sentence—*

20 (I) *by striking “Build an” and*
21 *inserting “Build or integrate an”; and*

22 (II) *by striking “\$2,000,000” and*
23 *inserting “\$2,500,000”; and*

24 (ii) *in the second sentence—*

25 (I) *by striking “300,000 and*
26 *that” and inserting “300,000,”; and*

1 (II) by inserting before the period
2 at the end the following: “, and in-
3 cludes major transportation corridors
4 serving that metropolitan area”;

5 (B) in clause (ii), by striking all that fol-
6 lows “will be” and inserting “reinvested in the
7 intelligent transportation infrastructure sys-
8 tem.”;

9 (C) by striking clause (iii); and

10 (D) by redesignating clauses (iv) and (v) as
11 clauses (iii) and (iv), respectively;

12 (2) in subparagraph (C)(ii), by striking “July 1,
13 2002” and inserting “the date that is 180 days after
14 the date of enactment of the Safe, Accountable, Flexi-
15 ble, and Efficient Transportation Equity Act of
16 2003”;

17 (3) in subparagraph (E), by striking clause (ii)
18 and inserting the following:

19 “(ii) The term “follow-on deployment
20 areas” means the metropolitan areas of Al-
21 bany, Atlanta, Austin, Baltimore, Bir-
22 mingham, Boston, Burlington Vermont,
23 Charlotte, Chicago, Cleveland, Columbus,
24 Dallas/Ft. Worth, Denver, Detroit, Greens-
25 boro, Hartford, Houston, Indianapolis,

1 *Jacksonville, Kansas City, Las Vegas, Los*
 2 *Angeles, Louisville, Miami, Milwaukee,*
 3 *Minneapolis-St. Paul, Nashville, New Orle-*
 4 *ans, New York/Northern New Jersey, Nor-*
 5 *folk, Northern Kentucky/Cincinnati, Okla-*
 6 *homa City, Orlando, Philadelphia, Phoenix,*
 7 *Pittsburgh, Portland, Providence, Raleigh,*
 8 *Richmond, Sacramento, Salt Lake, San*
 9 *Diego, San Francisco, San Jose, St. Louis,*
 10 *Seattle, Tampa, Tucson, Tulsa, and Wash-*
 11 *ington, District of Columbia.”;*

12 (4) *in subparagraph (F)—*

13 (A) *by striking “Of the amounts” and in-*
 14 *serting the following:*

15 “*(i) THIS ACT.—Of the amounts”;* and

16 (B) *by adding at the end the following:*

17 “*(ii) SAFETEA.—There are author-*
 18 *ized to be appropriated out of the Highway*
 19 *Trust Fund (other than the Mass Transit*
 20 *Account) \$5,000,000 for each fiscal year to*
 21 *carry out this paragraph.*

22 “*(iii) AVAILABILITY; NO REDUCTION*
 23 *OR SETASIDE.—Amounts made available by*
 24 *this subparagraph—*

1 “(I) shall remain available until
2 expended; and

3 “(II) shall not be subject to any
4 reduction or setaside.”; and

5 (5) by adding at the end the following:

6 “(H) USE OF RIGHTS-OF-WAY.—

7 “(i) IN GENERAL.—An intelligent
8 transportation system project described in
9 paragraph (3) or (6) that involves privately
10 owned intelligent transportation system
11 components and is carried out using funds
12 made available from the Highway Trust
13 Fund shall not be subject to any law (in-
14 cluding a regulation) of a State or political
15 subdivision of a State prohibiting or regu-
16 lating commercial activities in the rights-of-
17 way of a highway for which Federal-aid
18 highway funds have been used for planning,
19 design, construction, or maintenance, if the
20 Secretary determines that such use is in the
21 public interest.

22 “(ii) EFFECT OF SUBPARAGRAPH.—
23 Nothing in this subparagraph affects the
24 authority of a State or political subdivision
25 of a State to regulate highway safety.”.

1 (b) *CONFORMING AMENDMENT.*—Section 5204 of the
 2 *Transportation Equity Act for the 21st Century* (112 Stat.
 3 453) is amended by striking subsection (k) (112 Stat. 2681–
 4 478).

5 ***Subtitle C—Intelligent***
 6 ***Transportation System Research***

7 ***SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RE-***
 8 ***SEARCH AND TECHNICAL ASSISTANCE PRO-***
 9 ***GRAM.***

10 (a) *IN GENERAL.*—Chapter 5 of title 23, United States
 11 Code (as amended by section 2101), is amended by adding
 12 at the end the following:

13 “***SUBCHAPTER II—INTELLIGENT TRANSPOR-***
 14 ***TATION SYSTEM RESEARCH AND TECHNICAL***
 15 ***ASSISTANCE PROGRAM***

16 “***§521. Finding***

17 “Congress finds that continued investment in architec-
 18 ture and standards development, research, technical assist-
 19 ance for State and local governments, and systems integra-
 20 tion is needed to accelerate the rate at which intelligent
 21 transportation systems—

22 “(1) are incorporated into the national surface
 23 transportation network; and

24 “(2) as a result of that incorporation, improve
 25 transportation safety and efficiency and reduce costs

1 *and negative impacts on communities and the envi-*
2 *ronment.*

3 **“§ 522. Goals and purposes**

4 “(a) *GOALS.—The goals of the intelligent transpor-*
5 *tation system research and technical assistance program in-*
6 *clude—*

7 “(1) *enhancement of surface transportation effi-*
8 *ciency and facilitation of intermodalism and inter-*
9 *national trade—*

10 “(A) *to meet a significant portion of future*
11 *transportation needs, including public access to*
12 *employment, goods, and services; and*

13 “(B) *to reduce regulatory, financial, and*
14 *other transaction costs to public agencies and*
15 *system users;*

16 “(2) *the acceleration of the use of intelligent*
17 *transportation systems to assist in the achievement of*
18 *national transportation safety goals, including the en-*
19 *hancement of safe operation of motor vehicles and*
20 *nonmotorized vehicles, with particular emphasis on*
21 *decreasing the number and severity of collisions;*

22 “(3) *protection and enhancement of the natural*
23 *environment and communities affected by surface*
24 *transportation, with particular emphasis on assisting*

1 *State and local governments in achieving national en-*
2 *vironmental goals;*

3 “(4) *accommodation of the needs of all users of*
4 *surface transportation systems, including—*

5 “(A) *operators of commercial vehicles, pas-*
6 *senger vehicles, and motorcycles;*

7 “(B) *users of public transportation users*
8 *(with respect to intelligent transportation system*
9 *user services); and*

10 “(C) *individuals with disabilities; and*

11 “(5)(A) *improvement of the ability of the United*
12 *States to respond to emergencies and natural disas-*
13 *ters; and*

14 “(B) *enhancement of national security and de-*
15 *fense mobility.*

16 “(b) *PURPOSES.—The Secretary shall carry out activi-*
17 *ties under the intelligent transportation system research*
18 *and technical assistance program to, at a minimum—*

19 “(1) *assist in the development of intelligent*
20 *transportation system technologies;*

21 “(2) *ensure that Federal, State, and local trans-*
22 *portation officials have adequate knowledge of intel-*
23 *ligent transportation systems for full consideration in*
24 *the transportation planning process;*

1 “(3) improve regional cooperation, interoper-
2 ability, and operations for effective intelligent trans-
3 portation system performance;

4 “(4) promote the innovative use of private re-
5 sources;

6 “(5) assist State transportation departments in
7 developing a workforce capable of developing, oper-
8 ating, and maintaining intelligent transportation
9 systems;

10 “(6) maintain an updated national ITS archi-
11 tecture and consensus-based standards while ensuring
12 an effective Federal presence in the formulation of do-
13 mestic and international ITS standards;

14 “(7) advance commercial vehicle operations com-
15 ponents of intelligent transportation systems—

16 “(A) to improve the safety and productivity
17 of commercial vehicles and drivers; and

18 “(B) to reduce costs associated with com-
19 mercial vehicle operations and Federal and State
20 commercial vehicle regulatory requirements;

21 “(8) evaluate costs and benefits of intelligent
22 transportation systems projects;

23 “(9) improve, as part of the Archived Data User
24 Service and in cooperation with the Bureau of Trans-
25 portation Statistics, the collection of surface transpor-

1 *tation system condition and performance data*
2 *through the use of intelligent transportation system*
3 *technologies; and*

4 *“(10) ensure access to transportation informa-*
5 *tion and services by travelers of all ages.*

6 **“§ 523. Definitions**

7 *“In this subchapter:*

8 *“(1) COMMERCIAL VEHICLE INFORMATION SYS-*
9 *TEMS AND NETWORKS.—The term ‘commercial vehicle*
10 *information systems and networks’ means the infor-*
11 *mation systems and communications networks that*
12 *support commercial vehicle operations.*

13 *“(2) COMMERCIAL VEHICLE OPERATIONS.—*

14 *“(A) IN GENERAL.—The term ‘commercial*
15 *vehicle operations’ means motor carrier oper-*
16 *ations and motor vehicle regulatory activities as-*
17 *sociated with the commercial movement of goods*
18 *(including hazardous materials) and passengers.*

19 *“(B) INCLUSIONS.—The term ‘commercial*
20 *vehicle operations’, with respect to the public sec-*
21 *tor, includes—*

22 *“(i) the issuance of operating creden-*
23 *tials;*

24 *“(ii) the administration of motor vehi-*
25 *cle and fuel taxes; and*

1 “(iii) roadside safety and border cross-
2 ing inspection and regulatory compliance
3 operations.

4 “(3) INTELLIGENT TRANSPORTATION INFRA-
5 STRUCTURE.—The term ‘intelligent transportation in-
6 frastructure’ means fully integrated public sector in-
7 telligent transportation system components, as defined
8 by the Secretary.

9 “(4) INTELLIGENT TRANSPORTATION SYSTEM.—
10 The term ‘intelligent transportation system’ means
11 electronics, communications, or information proc-
12 essing used singly or in combination to improve the
13 efficiency or safety of a surface transportation system.

14 “(5) NATIONAL ITS ARCHITECTURE.—The term
15 ‘national ITS architecture’ means the common frame-
16 work for interoperability adopted by the Secretary
17 that defines—

18 “(A) the functions associated with intel-
19 ligent transportation system user services;

20 “(B) the physical entities or subsystems
21 within which the functions reside;

22 “(C) the data interfaces and information
23 flows between physical subsystems; and

24 “(D) the communications requirements as-
25 sociated with the information flows.

1 “(6) *STANDARD*.—The term ‘standard’ means a
2 document that—

3 “(A) contains technical specifications or
4 other precise criteria for intelligent transpor-
5 tation systems that are to be used consistently as
6 rules, guidelines, or definitions of characteristics
7 so as to ensure that materials, products, proc-
8 esses, and services are fit for their purposes; and

9 “(B) may—

10 “(i) support the national ITS architec-
11 ture; and

12 “(ii) promote—

13 “(I) the widespread use and adop-
14 tion of intelligent transportation sys-
15 tem technology as a component of the
16 surface transportation systems of the
17 United States; and

18 “(II) interoperability among in-
19 telligent transportation system tech-
20 nologies implemented throughout the
21 States.

22 **“§ 524. General authorities and requirements**

23 “(a) *SCOPE*.—Subject to this subchapter, the Secretary
24 shall carry out an ongoing intelligent transportation system
25 research program—

1 “(1) to research, develop, and operationally test
2 intelligent transportation systems; and

3 “(2) to provide technical assistance in the na-
4 tionwide application of those systems as a component
5 of the surface transportation systems of the United
6 States.

7 “(b) *POLICY.*—Intelligent transportation system oper-
8 ational tests and projects funded under this subchapter shall
9 encourage, but not displace, public-private partnerships or
10 private sector investment in those tests and projects.

11 “(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE,*
12 *AND EDUCATIONAL ENTITIES.*—The Secretary shall carry
13 out the intelligent transportation system research and tech-
14 nical assistance program in cooperation with—

15 “(1) State and local governments and other pub-
16 lic entities;

17 “(2) the private sector;

18 “(3) Federal laboratories (as defined in section
19 501); and

20 “(4) colleges and universities, including histori-
21 cally black colleges and universities and other minor-
22 ity institutions of higher education.

23 “(d) *CONSULTATION WITH FEDERAL OFFICIALS.*—In
24 carrying out the intelligent transportation system research

1 program, the Secretary, as appropriate, shall consult
2 with—

3 “(1) the Secretary of Commerce;

4 “(2) the Secretary of the Treasury;

5 “(3) the Administrator of the Environmental
6 Protection Agency;

7 “(4) the Director of the National Science Foun-
8 dation; and

9 “(5) the Secretary of Homeland Security.

10 “(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFOR-*
11 *MATION.*—The Secretary may provide technical assistance,
12 training, and information to State and local governments
13 seeking to implement, operate, maintain, or evaluate intel-
14 ligent transportation system technologies and services.

15 “(f) *TRANSPORTATION PLANNING.*—The Secretary
16 may provide funding to support adequate consideration of
17 transportation system management and operations (includ-
18 ing intelligent transportation systems) within metropolitan
19 and statewide transportation planning processes.

20 “(g) *INFORMATION CLEARINGHOUSE.*—The Secretary
21 shall—

22 “(1) maintain a repository for technical and
23 safety data collected as a result of federally sponsored
24 projects carried out under this subchapter; and

1 “(2) *on request, make that information (except*
2 *for proprietary information and data) readily avail-*
3 *able to all users of the repository at an appropriate*
4 *cost.*

5 “(h) *ADVISORY COMMITTEES.—*

6 “(1) *IN GENERAL.—In carrying out this sub-*
7 *chapter, the Secretary—*

8 “(A) *may use 1 or more advisory commit-*
9 *tees; and*

10 “(B) *shall designate a public-private orga-*
11 *nization, the members of which participate in*
12 *on-going research, planning, standards develop-*
13 *ment, deployment, and marketing of ITS pro-*
14 *grams, products, and services, and coordinate the*
15 *development and deployment of intelligent trans-*
16 *portation systems in the United States, as the*
17 *Federal advisory committee authorized by section*
18 *5204(h) of the Transportation Equity Act for the*
19 *21st Century (112 Stat. 454).*

20 “(2) *FUNDING.—Of the amount made available*
21 *to carry out this subchapter, the Secretary may use*
22 *\$1,500,000 for each fiscal year for advisory commit-*
23 *tees described in paragraph (1).*

24 “(3) *APPLICABILITY OF FEDERAL ADVISORY COM-*
25 *MITTEE ACT.—Any advisory committee described in*

1 *paragraph (1) shall be subject to the Federal Advisory*
2 *Committee Act (5 U.S.C. App.).*

3 “(i) *PROCUREMENT METHODS.—The Secretary shall*
4 *develop and provide appropriate technical assistance and*
5 *guidance to assist State and local agencies in evaluating*
6 *and selecting appropriate methods of deployment and pro-*
7 *curement for intelligent transportation system projects car-*
8 *ried out using funds made available from the Highway*
9 *Trust Fund, including innovative and nontraditional meth-*
10 *ods such as Information Technology Omnibus Procurement*
11 *(as developed by the Secretary).*

12 “(j) *EVALUATIONS.—*

13 “(1) *GUIDELINES AND REQUIREMENTS.—*

14 “(A) *IN GENERAL.—The Secretary shall*
15 *issue revised guidelines and requirements for the*
16 *evaluation of operational tests and other intel-*
17 *ligent transportation system projects carried out*
18 *under this subchapter.*

19 “(B) *OBJECTIVITY AND INDEPENDENCE.—*

20 *The guidelines and requirements issued under*
21 *subparagraph (A) shall include provisions to en-*
22 *sure the objectivity and independence of the eval-*
23 *uator so as to avoid any real or apparent con-*
24 *flict of interest or potential influence on the out-*
25 *come by—*

1 “(i) parties to any such test; or

2 “(ii) any other formal evaluation car-
3 ried out under this subchapter.

4 “(C) FUNDING.—The guidelines and re-
5 quirements issued under subparagraph (A) shall
6 establish evaluation funding levels based on the
7 size and scope of each test that ensure adequate
8 evaluation of the results of the test or project.

9 “(2) SPECIAL RULE.—Any survey, questionnaire,
10 or interview that the Secretary considers necessary to
11 carry out the evaluation of any test or program as-
12 sessment activity under this subchapter shall not be
13 subject to chapter 35 of title 44.

14 **“§ 525. National ITS Program Plan**

15 “(a) IN GENERAL.—

16 “(1) UPDATES.—Not later than 1 year after the
17 date of enactment of the Safe, Accountable, Flexible,
18 and Efficient Transportation Equity Act of 2004, the
19 Secretary, in consultation with interested stakeholders
20 (including State transportation departments) shall
21 develop a 5-year National ITS Program Plan.

22 “(2) SCOPE.—The National ITS Program Plan
23 shall—

1 “(A) specify the goals, objectives, and mile-
2 stones for the research and deployment of intel-
3 ligent transportation systems in the contexts of—

4 “(i) major metropolitan areas;

5 “(ii) smaller metropolitan and rural
6 areas; and

7 “(iii) commercial vehicle operations;

8 “(B) specify the manner in which specific
9 programs and projects will achieve the goals, ob-
10 jectives, and milestones referred to in subpara-
11 graph (A), including consideration of a 5-year
12 timeframe for the goals and objectives;

13 “(C) identify activities that provide for the
14 dynamic development, testing, and necessary re-
15 vision of standards and protocols to promote and
16 ensure interoperability in the implementation of
17 intelligent transportation system technologies,
18 including actions taken to establish standards;
19 and

20 “(D) establish a cooperative process with
21 State and local governments for—

22 “(i) determining desired surface trans-
23 portation system performance levels; and

24 “(ii) developing plans for accelerating
25 the incorporation of specific intelligent

1 *transportation system capabilities into sur-*
2 *face transportation systems.*

3 “(b) *REPORTING.—The National ITS Program Plan*
4 *shall be transmitted and biennially updated as part of the*
5 *surface transportation research and technology development*
6 *strategic plan developed under section 508(c).*

7 **“§ 526. National ITS architecture and standards**

8 “(a) *IN GENERAL.—*

9 “(1) *DEVELOPMENT, IMPLEMENTATION, AND*
10 *MAINTENANCE.—In accordance with section 12(d) of*
11 *the National Technology Transfer and Advancement*
12 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the*
13 *Secretary shall develop, implement, and maintain a*
14 *national ITS architecture and supporting standards*
15 *and protocols to promote the widespread use and eval-*
16 *uation of intelligent transportation system technology*
17 *as a component of the surface transportation systems*
18 *of the United States.*

19 “(2) *INTEROPERABILITY AND EFFICIENCY.—To*
20 *the maximum extent practicable, the national ITS ar-*
21 *chitecture shall promote interoperability among, and*
22 *efficiency of, intelligent transportation system tech-*
23 *nologies implemented throughout the United States.*

24 “(3) *USE OF STANDARDS DEVELOPMENT ORGANI-*
25 *ZATIONS.—In carrying out this section, the Secretary*

1 *shall use the services of such standards development*
2 *organizations as the Secretary determines to be ap-*
3 *propriate.*

4 “(b) *PROVISIONAL STANDARDS.—*

5 “(1) *IN GENERAL.—If the Secretary finds that*
6 *the development or selection of an intelligent trans-*
7 *portation system standard jeopardizes the timely*
8 *achievement of the objectives identified in subsection*
9 *(a), the Secretary may establish a provisional stand-*
10 *ard—*

11 “(A) *after consultation with affected parties;*

12 *and*

13 “(B) *by using, to the maximum extent prac-*
14 *ticable, the work product of appropriate stand-*
15 *ards development organizations.*

16 “(2) *CRITICAL STANDARDS.—If a standard iden-*
17 *tified by the Secretary as critical has not been adopt-*
18 *ed and published by the appropriate standards devel-*
19 *opment organization by the date of enactment of this*
20 *subchapter, the Secretary shall establish a provisional*
21 *standard—*

22 “(A) *after consultation with affected parties;*

23 *and*

1 “(B) by using, to the maximum extent prac-
2 ticable, the work product of appropriate stand-
3 ards development organizations.

4 “(3) *PERIOD OF EFFECTIVENESS.*—A provisional
5 standard established under paragraph (1) or (2)
6 shall—

7 “(A) be published in the *Federal Register*;
8 and

9 “(B) remain in effect until such time as the
10 appropriate standards development organization
11 adopts and publishes a standard.

12 “(c) *WAIVER OF REQUIREMENT TO ESTABLISH PROVI-*
13 *SIONAL CRITICAL STANDARD.*—

14 “(1) *IN GENERAL.*—The Secretary may waive
15 the requirement under subsection (b)(2) to establish a
16 provisional standard if the Secretary determines that
17 additional time would be productive in, or that estab-
18 lishment of a provisional standard would be counter-
19 productive to, the timely achievement of the objectives
20 identified in subsection (a).

21 “(2) *NOTICE.*—The Secretary shall publish in
22 the *Federal Register* a notice that describes—

23 “(A) each standard for which a waiver of
24 the provisional standard requirement is granted
25 under paragraph (1);

1 “(B) *the reasons for and effects of granting*
2 *the waiver; and*

3 “(C) *an estimate as to the date on which the*
4 *standard is expected to be adopted through a*
5 *process consistent with section 12(d) of the Na-*
6 *tional Technology Transfer and Advancement*
7 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).*

8 “(3) *WITHDRAWAL OF WAIVER.—*

9 “(A) *IN GENERAL.—The Secretary may*
10 *withdraw a waiver granted under paragraph (1)*
11 *at any time.*

12 “(B) *NOTICE.—On withdrawal of a waiver,*
13 *the Secretary shall publish in the Federal Reg-*
14 *ister a notice that describes—*

15 “(i) *each standard for which the waiv-*
16 *er has been withdrawn; and*

17 “(ii) *the reasons for withdrawing the*
18 *waiver.*

19 “(d) *CONFORMITY WITH NATIONAL ITS ARCHITEC-*
20 *TURE.—*

21 “(1) *IN GENERAL.—Except as provided in para-*
22 *graphs (2) and (3), the Secretary shall ensure that in-*
23 *telligent transportation system projects carried out*
24 *using funds made available from the Highway Trust*
25 *Fund conform to the national ITS architecture, ap-*

1 *plicable standards or provisional standards, and pro-*
2 *ocols developed under subsection (a).*

3 “(2) *DISCRETION OF SECRETARY.*—*The Sec-*
4 *retary may authorize exceptions to paragraph (1) for*
5 *projects designed to achieve specific research objectives*
6 *outlined in—*

7 “(A) *the National ITS Program Plan under*
8 *section 525; or*

9 “(B) *the surface transportation research*
10 *and technology development strategic plan devel-*
11 *oped under section 508(c).*

12 “(3) *EXCEPTIONS.*—*Paragraph (1) shall not*
13 *apply to funds used for operation or maintenance of*
14 *an intelligent transportation system in existence on*
15 *the date of enactment of this subchapter.*

16 **“§527. Commercial vehicle information systems and**
17 **networks deployment**

18 “(a) *DEFINITIONS.*—*In this section:*

19 “(1) *COMMERCIAL VEHICLE INFORMATION SYS-*
20 *TEMS AND NETWORKS.*—*The term ‘commercial vehicle*
21 *information systems and networks’ means the infor-*
22 *mation systems and communications networks that*
23 *provide the capability to—*

24 “(A) *improve the safety of commercial vehi-*
25 *cle operations;*

1 “(B) increase the efficiency of regulatory in-
2 spection processes to reduce administrative bur-
3 dens by advancing technology to facilitate in-
4 spections and increase the effectiveness of enforce-
5 ment efforts;

6 “(C) advance electronic processing of reg-
7 istration information, driver licensing informa-
8 tion, fuel tax information, inspection and crash
9 data, and other safety information;

10 “(D) enhance the safe passage of commercial
11 vehicles across the United States and across
12 international borders; and

13 “(E) promote the communication of infor-
14 mation among the States and encourage
15 multistate cooperation and corridor development.

16 “(2) COMMERCIAL VEHICLE OPERATIONS.—

17 “(A) IN GENERAL.—The term ‘commercial
18 vehicle operations’ means motor carrier oper-
19 ations and motor vehicle regulatory activities as-
20 sociated with the commercial movement of goods
21 (including hazardous materials) and passengers.

22 “(B) INCLUSIONS.—The term ‘commercial
23 vehicle operations’, with respect to the public sec-
24 tor, includes—

1 “(i) the issuance of operating creden-
2 tials;

3 “(ii) the administration of motor vehi-
4 cle and fuel taxes; and

5 “(iii) the administration of roadside
6 safety and border crossing inspection and
7 regulatory compliance operations.

8 “(3) *CORE DEPLOYMENT*.—The term ‘core de-
9 ployment’ means the deployment of systems in a
10 State necessary to provide the State with—

11 “(A) safety information exchange to—

12 “(i) electronically collect and transmit
13 commercial vehicle and driver inspection
14 data at a majority of inspection sites;

15 “(ii) connect to the Safety and Fitness
16 Electronic Records system for access to—

17 “(I) interstate carrier and com-
18 mercial vehicle data;

19 “(II) summaries of past safety
20 performance; and

21 “(III) commercial vehicle creden-
22 tials information; and

23 “(iii) exchange carrier data and com-
24 mercial vehicle safety and credentials infor-
25 mation within the State and connect to

1 *Safety and Fitness Electronic Records sys-*
2 *tem for access to interstate carrier and com-*
3 *mercial vehicle data;*

4 “(B) interstate credentials administration
5 to—

6 “(i)(I) perform end-to-end (including
7 carrier application) jurisdiction applica-
8 tion processing, and credential issuance, of
9 at least the International Registration Plan
10 and International Fuel Tax Agreement cre-
11 dentials; and

12 “(II) extend the processing to other cre-
13 dentials, including intrastate, titling, over-
14 size or overweight requirements, carrier reg-
15 istration, and hazardous materials;

16 “(ii) connect to the International Reg-
17 istration Plan and International Fuel Tax
18 Agreement clearinghouses; and

19 “(iii)(I) have at least 10 percent of the
20 transaction volume handled electronically;
21 and

22 “(II) have the capability to add more
23 carriers and to extend to branch offices
24 where applicable; and

1 “(C) roadside electronic screening to elec-
2 tronically screen transponder-equipped commer-
3 cial vehicles at a minimum of 1 fixed or mobile
4 inspection site and to replicate the screening at
5 other sites.

6 “(4) *EXPANDED DEPLOYMENT.*—The term ‘ex-
7 panded deployment’ means the deployment of systems
8 in a State that—

9 “(A) exceed the requirements of a core de-
10 ployment of commercial vehicle information sys-
11 tems and networks;

12 “(B) improve safety and the productivity of
13 commercial vehicle operations; and

14 “(C) enhance transportation security.

15 “(b) *PROGRAM.*—The Secretary shall carry out a com-
16 mercial vehicle information systems and networks program
17 to—

18 “(1) improve the safety and productivity of com-
19 mercial vehicles and drivers; and

20 “(2) reduce costs associated with commercial ve-
21 hicle operations and Federal and State commercial
22 vehicle regulatory requirements.

23 “(c) *PURPOSE.*—It is the purpose of the program to
24 advance the technological capability and promote the de-
25 ployment of intelligent transportation system applications

1 *for commercial vehicle operations, including commercial ve-*
2 *hicle, commercial driver, and carrier-specific information*
3 *systems and networks.*

4 “(d) *CORE DEPLOYMENT GRANTS.*—

5 “(1) *IN GENERAL.*—*The Secretary shall make*
6 *grants to eligible States for the core deployment of*
7 *commercial vehicle information systems and networks.*

8 “(2) *ELIGIBILITY.*—*To be eligible for a core de-*
9 *ployment grant under this subsection, a State shall—*

10 “(A) *have a commercial vehicle information*
11 *systems and networks program plan and a top*
12 *level system design approved by the Secretary;*

13 “(B) *certify to the Secretary that the com-*
14 *mercial vehicle information systems and net-*
15 *works deployment activities of the State (includ-*
16 *ing hardware procurement, software and system*
17 *development, and infrastructure modifica-*
18 *tions)—*

19 “(i) *are consistent with the national*
20 *intelligent transportation systems and com-*
21 *mercial vehicle information systems and*
22 *networks architectures and available stand-*
23 *ards; and*

1 “(ii) promote interoperability and effi-
2 ciency, to the maximum extent practicable;
3 and

4 “(C) agree to execute interoperability tests
5 developed by the Federal Motor Carrier Safety
6 Administration to verify that the systems of the
7 State conform with the national intelligent
8 transportation systems architecture, applicable
9 standards, and protocols for commercial vehicle
10 information systems and networks.

11 “(3) AMOUNT OF GRANTS.—The maximum ag-
12 gregate amount a State may receive under this sub-
13 section for the core deployment of commercial vehicle
14 information systems and networks may not exceed
15 \$2,500,000, including funds received under section
16 2001(a) of the Safe, Accountable, Flexible, and Effi-
17 cient Transportation Equity Act of 2004 for the core
18 deployment of commercial vehicle information systems
19 and networks.

20 “(4) USE OF FUNDS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), funds from a grant under this sub-
23 section may only be used for the core deployment
24 of commercial vehicle information systems and
25 networks.

1 “(B) *REMAINING FUNDS.*—*An eligible State*
2 *that has completed the core deployment of com-*
3 *mmercial vehicle information systems and net-*
4 *works, or completed the deployment before core*
5 *deployment grant funds are expended, may use*
6 *the remaining core deployment grant funds for*
7 *the expanded deployment of commercial vehicle*
8 *information systems and networks in the State.*

9 “(e) *EXPANDED DEPLOYMENT GRANTS.*—

10 “(1) *IN GENERAL.*—*For each fiscal year, from*
11 *the funds remaining after the Secretary has made*
12 *core deployment grants under subsection (d), the Sec-*
13 *retary may make grants to each eligible State, on re-*
14 *quest, for the expanded deployment of commercial ve-*
15 *hicle information systems and networks.*

16 “(2) *ELIGIBILITY.*—*Each State that has com-*
17 *pleted the core deployment of commercial vehicle in-*
18 *formation systems and networks shall be eligible for*
19 *an expanded deployment grant.*

20 “(3) *AMOUNT OF GRANTS.*—*Each fiscal year, the*
21 *Secretary may distribute funds available for ex-*
22 *panded deployment grants equally among the eligible*
23 *States in an amount that does not exceed \$1,000,000*
24 *for each State.*

1 “(4) *USE OF FUNDS.*—*A State may use funds*
2 *from a grant under this subsection only for the ex-*
3 *expanded deployment of commercial vehicle information*
4 *systems and networks.*

5 “(f) *FEDERAL SHARE.*—*The Federal share of the cost*
6 *of a project payable from funds made available to carry*
7 *out this section shall be the share applicable under section*
8 *120(b), as adjusted under subsection (d) of that section.*

9 “(g) *FUNDING.*—*Funds authorized to be appropriated*
10 *to carry out this section shall be available for obligation*
11 *in the same manner and to the same extent as if the funds*
12 *were apportioned under chapter 1, except that the funds*
13 *shall remain available until expended.*

14 **“§ 528. Research and development**

15 “(a) *IN GENERAL.*—*The Secretary shall carry out a*
16 *comprehensive program of intelligent transportation system*
17 *research, development, and operational tests of intelligent*
18 *vehicles and intelligent infrastructure systems, and other*
19 *similar activities that are necessary to carry out this sub-*
20 *chapter.*

21 “(b) *PRIORITY AREAS.*—*Under the program, the Sec-*
22 *retary shall give priority to funding projects that—*

23 “(1) *assist in the development of an inter-*
24 *connected national intelligent transportation system*
25 *network that—*

1 “(A) improves the reliability of the surface
2 transportation system;

3 “(B) supports national security;

4 “(C) reduces, by at least 20 percent, the cost
5 of manufacturing, deploying, and operating in-
6 telligent transportation systems network compo-
7 nents;

8 “(D) could assist in deployment of the
9 Armed Forces in response to a crisis; and

10 “(E) improves response to, and evacuation
11 of the public during, an emergency situation;

12 “(2) address traffic management, incident man-
13 agement, transit management, toll collection traveler
14 information, or highway operations systems with
15 goals of—

16 “(A) reducing metropolitan congestion by 5
17 percent by 2010;

18 “(B) ensuring that a national, interoperable
19 511 system, along with a national traffic infor-
20 mation system that includes a user-friendly,
21 comprehensive website, is fully implemented for
22 use by travelers throughout the United States by
23 September 30, 2010; and

24 “(C)(i) improving incident management re-
25 sponse, particularly in rural areas, so that rural

1 *emergency response times are reduced by an av-*
2 *erage of 10 minutes; and*

3 “(i) *subject to subsection (d), improving*
4 *communication between emergency care pro-*
5 *viders and trauma centers;*

6 “(3) *address traffic management, incident man-*
7 *agement, transit management, toll collection, traveler*
8 *information, or highway operations systems;*

9 “(4) *conduct operational tests of the integration*
10 *of at least 3 crash-avoidance technologies in passenger*
11 *vehicles;*

12 “(5) *incorporate human factors research, includ-*
13 *ing the science of the driving process;*

14 “(6) *facilitate the integration of intelligent infra-*
15 *structure, vehicle, and control technologies;*

16 “(7) *incorporate research on the impact of envi-*
17 *ronmental, weather, and natural conditions on intel-*
18 *ligent transportation systems, including the effects of*
19 *cold climates;*

20 “(8) *as determined by the Secretary, will im-*
21 *prove the overall safety performance of vehicles and*
22 *roadways, including the use of real-time setting of*
23 *speed limits through the use of speed management*
24 *technology;*

25 “(9) *examine—*

1 “(A) the application to intelligent transpor-
2 tation systems of appropriately modified existing
3 technologies from other industries; and

4 “(B) the development of new, more robust
5 intelligent transportation systems technologies
6 and instrumentation;

7 “(10) develop and test communication tech-
8 nologies that—

9 “(A) are based on an assessment of the
10 needs of officers participating in a motor carrier
11 safety program funded under section 31104 of
12 title 49;

13 “(B) take into account the effectiveness and
14 adequacy of available technology;

15 “(C) address systems integration,
16 connectivity, and interoperability challenges;
17 and

18 “(D) provide the means for officers partici-
19 pating in a motor carrier safety program funded
20 under section 31104 of title 49 to directly assess,
21 without an intermediary, current and accurate
22 safety and regulatory information on motor car-
23 riers, commercial motor vehicles and drivers at
24 roadside or mobile inspection facilities;

1 “(11) enhance intermodal use of intelligent
2 transportation systems for diverse groups, including
3 for emergency and health-related services;

4 “(12) improve sensing and wireless communica-
5 tions that provide real-time information regarding
6 congestion and incidents;

7 “(13) develop and test high-accuracy, lane-level,
8 real-time accessible digital map architectures that can
9 be used by intelligent vehicles and intelligent infra-
10 structure elements to facilitate safety and crash avoid-
11 ance (including establishment of national standards
12 for an open-architecture digital map of all public
13 roads that is compatible with electronic 9-1-1 serv-
14 ices);

15 “(14) encourage the dual-use of intelligent trans-
16 portation system technologies (such as wireless com-
17 munications) for—

18 “(A) emergency services;

19 “(B) road pricing; and

20 “(C) local economic development; and

21 “(15) advance the use of intelligent transpor-
22 tation systems to facilitate high-performance trans-
23 portation systems, such as through—

24 “(A) congestion-pricing;

25 “(B) real-time facility management;

1 “(C) *rapid-emergency response; and*

2 “(D) *just-in-time transit.*

3 “(c) *OPERATIONAL TESTS.—Operational tests con-*
4 *ducted under this section shall be designed for—*

5 “(1) *the collection of data to permit objective*
6 *evaluation of the results of the tests;*

7 “(2) *the derivation of cost-benefit information*
8 *that is useful to others contemplating deployment of*
9 *similar systems; and*

10 “(3) *the development and implementation of*
11 *standards.*

12 “(d) *FEDERAL SHARE.—The Federal share of the costs*
13 *of operational tests under subsection (a) shall not exceed*
14 *80 percent.*

15 **“§ 529. Use of funds**

16 “(a) *IN GENERAL.—For each fiscal year, not more*
17 *than \$5,000,000 of the funds made available to carry out*
18 *this subchapter shall be used for intelligent transportation*
19 *system outreach, public relations, displays, tours, and bro-*
20 *chures.*

21 “(b) *APPLICABILITY.—Subsection (a) shall not apply*
22 *to intelligent transportation system training, scholarships,*
23 *or the publication or distribution of research findings, tech-*
24 *nical guidance, or similar documents.”.*

1 (b) *CONFORMING AMENDMENT.*—Title V of the Trans-
2 *portation Equity Act for the 21st Century* is amended by
3 striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

4 **TITLE III—PUBLIC**
5 **TRANSPORTATION**

6 **SEC. 3001. SHORT TITLE.**

7 This title may be cited as the “Federal Public Trans-
8 portation Act of 2004”.

9 **SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES**
10 **CODE; UPDATED TERMINOLOGY.**

11 (a) *AMENDMENTS TO TITLE 49.*—Except as otherwise
12 specifically provided, whenever in this title an amendment
13 or repeal is expressed in terms of an amendment to, or re-
14 peal of, a section or other provision of law, the reference
15 shall be considered to be made to a section or other provi-
16 sion of title 49, United States Code.

17 (b) *UPDATED TERMINOLOGY.*—Except for sections
18 5301(f), 5302(a)(7), and 5315, chapter 53, including the
19 chapter analysis, is amended by striking “mass transpor-
20 tation” each place it appears and inserting “public trans-
21 portation”.

22 **SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.**

23 (a) *DEVELOPMENT AND REVITALIZATION OF PUBLIC*
24 *TRANSPORTATION SYSTEMS.*—Section 5301(a) is amended
25 to read as follows:

1 “(a) *DEVELOPMENT AND REVITALIZATION OF PUBLIC*
2 *TRANSPORTATION SYSTEMS.*—*It is in the economic interest*
3 *of the United States to foster the development and revital-*
4 *ization of public transportation systems, which are coordi-*
5 *nated with other modes of transportation, that maximize*
6 *the efficient, secure, and safe mobility of individuals and*
7 *minimize environmental impacts.”.*

8 (b) *GENERAL FINDINGS.*—*Section 5301(b)(1) is*
9 *amended—*

10 (1) *by striking “70 percent” and inserting “two-*
11 *thirds”;* *and*

12 (2) *by striking “urban areas” and inserting “ur-*
13 *banized areas”.*

14 (c) *PRESERVING THE ENVIRONMENT.*—*Section 5301(e)*
15 *is amended—*

16 (1) *by striking “an urban” and inserting “a”;*
17 *and*

18 (2) *by striking “under sections 5309 and 5310 of*
19 *this title”.*

20 (d) *GENERAL PURPOSES.*—*Section 5301(f) is amend-*
21 *ed—*

22 (1) *in paragraph (1)—*

23 (A) *by striking “improved mass” and in-*
24 *serting “improved public”;* *and*

1 (B) by striking “public and private mass
2 transportation companies” and inserting “public
3 transportation companies and private companies
4 engaged in public transportation”;

5 (2) in paragraph (2)—

6 (A) by striking “urban mass” and inserting
7 “public”; and

8 (B) by striking “public and private mass
9 transportation companies” and inserting “public
10 transportation companies and private companies
11 engaged in public transportation”;

12 (3) in paragraph (3)—

13 (A) by striking “urban mass” and inserting
14 “public”; and

15 (B) by striking “public or private mass
16 transportation companies” and inserting “public
17 transportation companies or private companies
18 engaged in public transportation”; and

19 (4) in paragraph (5), by striking “urban mass”
20 and inserting “public”.

21 **SEC. 3004. DEFINITIONS.**

22 Section 5302(a) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (G)(i), by inserting
25 “including the intercity bus and intercity rail

1 portions of such facility or mall,” after “trans-
2 portation mall,”;

3 (B) in subparagraph (G)(ii), by inserting “,
4 except for the intercity bus portion of intermodal
5 facilities or malls,” after “commercial revenue-
6 producing facility”;

7 (C) in subparagraph (H)—

8 (i) by striking “and” after “innova-
9 tive” and inserting “or”; and

10 (ii) by striking “or” after the semi-
11 colon at the end;

12 (D) in subparagraph (I), by striking the pe-
13 riod at the end and inserting a semicolon; and

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

15 “(J) crime prevention and security, includ-
16 ing—

17 “(i) projects to refine and develop secu-
18 rity and emergency response plans; or

19 “(ii) projects to detect chemical or bio-
20 logical agents in public transportation;

21 “(K) conducting emergency response
22 drills with public transportation agencies
23 and local first response agencies or security
24 training for public transportation employ-

1 ees, except for expenses relating to oper-
2 ations; or

3 “(L) establishing a debt service reserve,
4 made up of deposits with a bondholder’s
5 trustee, to ensure the timely payment of
6 principal and interest on bonds issued by a
7 grant recipient to finance an eligible project
8 under this chapter.”;

9 (2) by striking paragraph (16);

10 (3) by redesignating paragraphs (8) through (15)
11 as paragraphs (9) through (16), respectively;

12 (4) by striking paragraph (7) and inserting the
13 following:

14 “(7) *MASS TRANSPORTATION*.—The term ‘mass
15 transportation’ means public transportation.

16 “(8) *MOBILITY MANAGEMENT*.—The term ‘mobil-
17 ity management’ means a short-range planning or
18 management activity or project that does not include
19 operating public transportation services and—

20 “(A) improves coordination among public
21 transportation providers, including private com-
22 panies engaged in public transportation;

23 “(B) addresses customer needs by tailoring
24 public transportation services to specific market
25 niches; or

1 “(C) manages public transportation de-
2 mand.”;

3 (5) by amending paragraph (11), as redesign-
4 nated, to read as follows:

5 “(11) PUBLIC TRANSPORTATION.—The term
6 ‘public transportation’ means transportation by a
7 conveyance that provides local regular and continuing
8 general or special transportation to the public, but
9 does not include school bus, charter bus, intercity bus
10 or passenger rail, or sightseeing transportation.”;

11 (6) in subparagraphs (A) and (E) of paragraph
12 (16), as redesignated, by striking “and” each place it
13 appears and inserting “or”; and

14 (7) by amending paragraph (17) to read as fol-
15 lows:

16 “(17) URBANIZED AREA.—The term ‘urbanized
17 area’ means an area encompassing a population of
18 not less than 50,000 people that has been defined and
19 designated in the most recent decennial census as an
20 ‘urbanized area’ by the Secretary of Commerce.”.

21 **SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.**

22 Section 5303 is amended to read as follows:

23 **“§ 5303. Metropolitan transportation planning**

24 “(a) DEFINITIONS.—As used in this section and in sec-
25 tion 5304, the following definitions shall apply:

1 “(1) *CONSULTATION.*—A ‘consultation’ occurs
2 when 1 party—

3 “(A) confers with another identified party
4 in accordance with an established process;

5 “(B) prior to taking action, considers the
6 views of the other identified party; and

7 “(C) periodically informs that party about
8 action taken.

9 “(2) *METROPOLITAN PLANNING AREA.*—The term
10 ‘metropolitan planning area’ means the geographic
11 area determined by agreement between the metropoli-
12 tan planning organization and the Governor under
13 subsection (d).

14 “(3) *METROPOLITAN PLANNING ORGANIZA-*
15 *TION.*—The term ‘metropolitan planning organiza-
16 tion’ means the Policy Board of the organization des-
17 ignated under subsection (c).

18 “(4) *NONMETROPOLITAN AREA.*—The term ‘non-
19 metropolitan area’ means any geographic area out-
20 side all designated metropolitan planning areas.

21 “(5) *NONMETROPOLITAN LOCAL OFFICIAL.*—The
22 term ‘nonmetropolitan local official’ means any elect-
23 ed or appointed official of general purpose local gov-
24 ernment located in a nonmetropolitan area who is re-

1 *sponsible for transportation services for such local*
2 *government.*

3 “(b) *GENERAL REQUIREMENTS.*—

4 “(1) *DEVELOPMENT OF PLANS AND PROGRAMS.*—
5 *To accomplish the objectives described in section*
6 *5301(a), each metropolitan planning organization, in*
7 *cooperation with the State and public transportation*
8 *operators, shall develop transportation plans and pro-*
9 *grams for metropolitan planning areas of the State in*
10 *which it is located.*

11 “(2) *CONTENTS.*—*The plans and programs devel-*
12 *oped under paragraph (1) for each metropolitan plan-*
13 *ning area shall provide for the development and inte-*
14 *grated management and operation of transportation*
15 *systems and facilities (including pedestrian walkways*
16 *and bicycle transportation facilities) that will func-*
17 *tion as an intermodal transportation system for the*
18 *metropolitan planning area and as an integral part*
19 *of an intermodal transportation system for the State*
20 *and the United States.*

21 “(3) *PROCESS OF DEVELOPMENT.*—*The process*
22 *for developing the plans and programs shall provide*
23 *for consideration of all modes of transportation and*
24 *shall be continuing, cooperative, and comprehensive to*

1 *the degree appropriate, based on the complexity of the*
2 *transportation problems to be addressed.*

3 “(4) *PLANNING AND PROJECT DEVELOPMENT.—*
4 *The metropolitan planning organization, the State*
5 *Department of Transportation, and the appropriate*
6 *public transportation provider shall agree upon the*
7 *approaches that will be used to evaluate alternatives*
8 *and identify transportation improvements that ad-*
9 *dress the most complex problems and pressing trans-*
10 *portation needs in the metropolitan area.*

11 “(c) *DESIGNATION OF METROPOLITAN PLANNING OR-*
12 *GANIZATIONS.—*

13 “(1) *IN GENERAL.—To carry out the transpor-*
14 *tation planning process under this section, a metro-*
15 *politan planning organization shall be designated for*
16 *each urbanized area—*

17 “(A) *by agreement between the Governor*
18 *and units of general purpose local government*
19 *that combined represent not less than 75 percent*
20 *of the affected population (including the incor-*
21 *porated city or cities named by the Bureau of*
22 *the Census in designating the urbanized area); or*

23 “(B) *in accordance with procedures estab-*
24 *lished by applicable State or local law.*

1 “(2) *STRUCTURE.*—*Each metropolitan planning*
2 *organization designated under paragraph (1) that*
3 *serves an area identified as a transportation manage-*
4 *ment area shall consist of—*

5 “(A) *local elected officials;*

6 “(B) *officials of public agencies that admin-*
7 *ister or operate major modes of transportation in*
8 *the metropolitan area; and*

9 “(C) *appropriate State officials.*

10 “(3) *LIMITATION ON STATUTORY CONSTRUC-*
11 *TION.*—*Nothing in this subsection shall be construed*
12 *to interfere with the authority, under any State law*
13 *in effect on December 18, 1991, of a public agency*
14 *with multimodal transportation responsibilities—*

15 “(A) *to develop plans and programs for*
16 *adoption by a metropolitan planning organiza-*
17 *tion; and*

18 “(B) *to develop long-range capital plans,*
19 *coordinate transit services and projects, and*
20 *carry out other activities pursuant to State law.*

21 “(4) *CONTINUING DESIGNATION.*—*The designa-*
22 *tion of a metropolitan planning organization under*
23 *this subsection or any other provision of law shall re-*
24 *main in effect until the metropolitan planning orga-*
25 *nization is redesignated under paragraph (5).*

1 “(5) *REDESIGNATION PROCEDURES.*—A metro-
2 politan planning organization may be redesignated
3 by agreement between the Governor and units of gen-
4 eral purpose local government that combined rep-
5 resent not less than 75 percent of the existing plan-
6 ning area population (including the incorporated city
7 or cities named by the Bureau of the Census in desig-
8 nating the urbanized area) as appropriate to carry
9 out this section.

10 “(6) *DESIGNATION OF MORE THAN 1 METROPOLI-*
11 *TAN PLANNING ORGANIZATION.*—More than 1 metro-
12 politan planning organization may be designated
13 within an existing metropolitan planning area only
14 if the Governor and the existing metropolitan plan-
15 ning organization determine that the size and com-
16 plexity of the existing metropolitan planning area
17 make designation of more than 1 metropolitan plan-
18 ning organization for the area appropriate.

19 “(d) *METROPOLITAN PLANNING AREA BOUNDARIES.*—

20 “(1) *IN GENERAL.*—For the purposes of this sec-
21 tion, the boundaries of a metropolitan planning area
22 shall be determined by agreement between the metro-
23 politan planning organization and the Governor.

24 “(2) *INCLUDED AREA.*—Each metropolitan plan-
25 ning area—

1 “(A) shall encompass at least the existing
2 urbanized area and the contiguous area expected
3 to become urbanized within a 20-year forecast
4 period for the transportation plan; and

5 “(B) may encompass the entire metropoli-
6 tan statistical area or consolidated metropolitan
7 statistical area, as defined by the Office of Man-
8 agement and Budget.

9 “(3) IDENTIFICATION OF NEW URBANIZED AREAS
10 WITHIN EXISTING PLANNING AREA BOUNDARIES.—The
11 designation by the Bureau of the Census of new ur-
12 banized areas within an existing metropolitan plan-
13 ning area shall not require the redesignation of the
14 existing metropolitan planning organization.

15 “(4) EXISTING METROPOLITAN PLANNING AREAS
16 IN NONATTAINMENT.—Notwithstanding paragraph
17 (2), in the case of an urbanized area designated as a
18 nonattainment area for ozone or carbon monoxide
19 under the Clean Air Act (42 U.S.C. 7401 et seq.), the
20 boundaries of the metropolitan planning area in ex-
21 istence as of the date of enactment of the Federal Pub-
22 lic Transportation Act of 2004 shall be retained, ex-
23 cept that the boundaries may be adjusted by agree-
24 ment of the Governor and affected metropolitan plan-
25 ning organizations in accordance with paragraph (5).

1 “(5) *NEW METROPOLITAN PLANNING AREAS IN*
2 *NONATTAINMENT.*—*If an urbanized area is designated*
3 *after the date of enactment of this paragraph in a*
4 *nonattainment area for ozone or carbon monoxide, the*
5 *boundaries of the metropolitan planning area—*

6 “(A) *shall be established in accordance with*
7 *subsection (c)(1);*

8 “(B) *shall encompass the areas described in*
9 *paragraph (2)(A);*

10 “(C) *may encompass the areas described in*
11 *paragraph (2)(B); and*

12 “(D) *may address any nonattainment iden-*
13 *tified under the Clean Air Act (42 U.S.C. 7401*
14 *et seq.) for ozone or carbon monoxide.*

15 “(e) *COORDINATION IN MULTISTATE AREAS.*—

16 “(1) *IN GENERAL.*—*The Secretary shall encour-*
17 *age each Governor with responsibility for a portion of*
18 *a multistate metropolitan area and the appropriate*
19 *metropolitan planning organizations to provide co-*
20 *ordinated transportation planning for the entire met-*
21 *ropolitan area.*

22 “(2) *INTERSTATE COMPACTS.*—*States are au-*
23 *thorized—*

24 “(A) *to enter into agreements or compacts*
25 *with other States, which agreements or compacts*

1 *are not in conflict with any law of the United*
2 *States, for cooperative efforts and mutual assist-*
3 *ance in support of activities authorized under*
4 *this section as the activities pertain to interstate*
5 *areas and localities within the States; and*

6 *“(B) to establish such agencies, joint or oth-*
7 *erwise, as the States may determine desirable for*
8 *making the agreements and compacts effective.*

9 *“(3) LAKE TAHOE REGION.—*

10 *“(A) DEFINITION.—In this paragraph, the*
11 *term ‘Lake Tahoe region’ has the meaning given*
12 *the term ‘region’ in subdivision (a) of article II*
13 *of the Tahoe Regional Planning Compact, as set*
14 *forth in the first section of Public Law 96–551*
15 *(94 Stat. 3234).*

16 *“(B) TRANSPORTATION PLANNING PROC-*
17 *ESS.—The Secretary shall—*

18 *“(i) establish with the Federal land*
19 *management agencies that have jurisdiction*
20 *over land in the Lake Tahoe region a trans-*
21 *portation planning process for the region;*
22 *and*

23 *“(ii) coordinate the transportation*
24 *planning process with the planning process*

1 *required of State and local governments*
2 *under this section and section 5304.*

3 “(C) *INTERSTATE COMPACT.*—

4 “(i) *IN GENERAL.*—*Subject to clause*
5 *(ii) and notwithstanding subsection (c), to*
6 *carry out the transportation planning proc-*
7 *ess required by this section, California and*
8 *Nevada may designate a metropolitan plan-*
9 *ning organization for the Lake Tahoe re-*
10 *gion, by agreement between the Governor of*
11 *the State of California, the Governor of the*
12 *State of Nevada, and units of general pur-*
13 *pose local government that combined rep-*
14 *resent not less than 75 percent of the af-*
15 *ected population (including the incor-*
16 *porated city or cities named by the Bureau*
17 *of the Census in designating the urbanized*
18 *area), or in accordance with procedures es-*
19 *tablished by applicable State or local law.*

20 “(ii) *INVOLVEMENT OF FEDERAL LAND*
21 *MANAGEMENT AGENCIES.*—

22 “(I) *REPRESENTATION.*—*The pol-*
23 *icy board of a metropolitan planning*
24 *organization designated under clause*
25 *(i) shall include a representative of*

1 each Federal land management agency
2 that has jurisdiction over land in the
3 Lake Tahoe region.

4 “(II) FUNDING.—In addition to
5 funds made available to the metropoli-
6 tan planning organization under other
7 provisions of title 23 and this chapter,
8 not more than 1 percent of the funds
9 allocated under section 202 of title 23
10 may be used to carry out the transpor-
11 tation planning process for the Lake
12 Tahoe region under this subparagraph.

13 “(D) ACTIVITIES.—Highway projects in-
14 cluded in transportation plans developed under
15 this paragraph—

16 “(i) shall be selected for funding in a
17 manner that facilitates the participation of
18 the Federal land management agencies that
19 have jurisdiction over land in the Lake
20 Tahoe region; and

21 “(ii) may, in accordance with chapter
22 2 of title 23, be funded using funds allocated
23 under section 202 of title 23.

24 “(f) COORDINATION OF METROPOLITAN PLANNING OR-
25 GANIZATIONS.—

1 “(1) *NONATTAINMENT AREAS.*—If more than 1
2 *metropolitan planning organization has authority*
3 *within a metropolitan area or an area which is des-*
4 *ignated as a nonattainment area for ozone or carbon*
5 *monoxide under the Clean Air Act (42 U.S.C. 7401*
6 *et seq.), each metropolitan planning organization*
7 *shall consult with the other metropolitan planning or-*
8 *ganizations designated for such area and the State in*
9 *the coordination of plans required by this section.*

10 “(2) *TRANSPORTATION IMPROVEMENTS LOCATED*
11 *IN MULTIPLE METROPOLITAN PLANNING AREAS.*—If a
12 *transportation improvement funded from the highway*
13 *trust fund is located within the boundaries of more*
14 *than 1 metropolitan planning area, the metropolitan*
15 *planning organizations shall coordinate plans regard-*
16 *ing the transportation improvement.*

17 “(3) *INTERREGIONAL AND INTERSTATE PROJECT*
18 *IMPACTS.*—*Planning for National Highway System,*
19 *commuter rail projects, or other projects with substan-*
20 *tial impacts outside a single metropolitan planning*
21 *area or State shall be coordinated directly with the*
22 *affected, contiguous, metropolitan planning organiza-*
23 *tions and States.*

24 “(4) *COORDINATION WITH OTHER PLANNING*
25 *PROCESSES.*—

1 “(A) *IN GENERAL.*—*The Secretary shall en-*
2 *courage each metropolitan planning organiza-*
3 *tion to coordinate its planning process, to the*
4 *maximum extent practicable, with those officials*
5 *responsible for other types of planning activities*
6 *that are affected by transportation, including*
7 *State and local land use planning, economic de-*
8 *velopment, environmental protection, airport op-*
9 *erations, housing, and freight.*

10 “(B) *OTHER CONSIDERATIONS.*—*The metro-*
11 *politan planning process shall develop transpor-*
12 *tation plans with due consideration of, and in*
13 *coordination with, other related planning activi-*
14 *ties within the metropolitan area. This should*
15 *include the design and delivery of transportation*
16 *services within the metropolitan area that are*
17 *provided by—*

18 “(i) *recipients of assistance under this*
19 *chapter;*

20 “(ii) *governmental agencies and non-*
21 *profit organizations (including representa-*
22 *tives of the agencies and organizations) that*
23 *receive Federal assistance from a source*
24 *other than the Department of Transpor-*

1 *tation to provide nonemergency transpor-*
2 *tation services; and*

3 *“(iii) recipients of assistance under*
4 *section 204 of title 23.*

5 *“(g) SCOPE OF PLANNING PROCESS.—*

6 *“(1) IN GENERAL.—The goals and objectives de-*
7 *veloped through the metropolitan planning process for*
8 *a metropolitan planning area under this section shall*
9 *address, in relation to the performance of the metro-*
10 *politan area transportation systems—*

11 *“(A) supporting the economic vitality of the*
12 *metropolitan area, especially by enabling global*
13 *competitiveness, productivity, and efficiency, in-*
14 *cluding through services provided by public and*
15 *private operators;*

16 *“(B) increasing the safety of the transpor-*
17 *tation system for motorized and nonmotorized*
18 *users;*

19 *“(C) increasing the security of the transpor-*
20 *tation system for motorized and nonmotorized*
21 *users;*

22 *“(D) increasing the accessibility and mobil-*
23 *ity of people and for freight, including through*
24 *services provided by public and private opera-*
25 *tors;*

1 “(E) protecting and enhancing the environ-
2 ment (including the protection of habitat, water
3 quality, and agricultural and forest land, while
4 minimizing invasive species), promoting energy
5 conservation, and promoting consistency between
6 transportation improvements and State and
7 local land use planning and economic develop-
8 ment patterns (including minimizing adverse
9 health effects from mobile source air pollution
10 and promoting the linkage of the transportation
11 and development goals of the metropolitan area);

12 “(F) enhancing the integration and
13 connectivity of the transportation system, across
14 and between modes, for people and freight, in-
15 cluding through services provided by public and
16 private operators;

17 “(G) promoting efficient system manage-
18 ment and operation; and

19 “(H) emphasizing the preservation and effi-
20 cient use of the existing transportation system,
21 including services provided by public and pri-
22 vate operators.

23 “(2) SELECTION OF FACTORS.—After soliciting
24 and considering any relevant public comments, the
25 metropolitan planning organization shall determine

1 *which of the factors described in paragraph (1) are*
2 *most appropriate to consider.*

3 “(3) *FAILURE TO CONSIDER FACTORS.*—*The fail-*
4 *ure to consider any factor specified in paragraph (1)*
5 *shall not be reviewable by any court under title 23,*
6 *this title, subchapter II of chapter 5 of title 5, or*
7 *chapter 7 of title 5 in any matter affecting a trans-*
8 *portation plan, a transportation improvement plan, a*
9 *project or strategy, or the certification of a planning*
10 *process.*

11 “(h) *DEVELOPMENT OF TRANSPORTATION PLAN.*—

12 “(1) *IN GENERAL.*—

13 “(A) *REQUIREMENT.*—*Each metropolitan*
14 *planning organization shall develop a transpor-*
15 *tation plan for its metropolitan planning area*
16 *in accordance with this subsection, and update*
17 *such plan—*

18 “(i) *not less frequently than once every*
19 *4 years in areas designated as nonattain-*
20 *ment, as defined in section 107(d) of the*
21 *Clean Air Act (42 U.S.C. 7407(d)), and in*
22 *areas that were nonattainment that have*
23 *been redesignated as attainment, in accord-*
24 *ance with paragraph (3) of such section,*
25 *with a maintenance plan under section*

1 *175A of the Clean Air Act (42 U.S.C.*
2 *7505a); or*

3 *“(ii) not less frequently than once*
4 *every 5 years in areas designated as attain-*
5 *ment, as defined in section 107(d) of the*
6 *Clean Air Act.*

7 *“(B) COORDINATION FACTORS.—In devel-*
8 *oping the transportation plan under this section,*
9 *each metropolitan planning organization shall*
10 *consider the factors described in subsection (f)*
11 *over a 20-year forecast period.*

12 *“(C) FINANCIAL ESTIMATES.—For the pur-*
13 *pose of developing the transportation plan, the*
14 *metropolitan planning organization, transit op-*
15 *erator, and State shall cooperatively develop esti-*
16 *mates of funds that will be available to support*
17 *plan implementation.*

18 *“(2) MITIGATION ACTIVITIES.—*

19 *“(A) IN GENERAL.—A transportation plan*
20 *under this subsection shall include a discussion*
21 *of—*

22 *“(i) types of potential habitat,*
23 *hydrological, and environmental mitigation*
24 *activities that may assist in compensating*

1 *for loss of habitat, wetland, and other envi-*
2 *ronmental functions; and*

3 “(ii) *potential areas to carry out these*
4 *activities, including a discussion of areas*
5 *that may have the greatest potential to re-*
6 *store and maintain the habitat types and*
7 *hydrological or environmental functions af-*
8 *ected by the plan.*

9 “(B) *CONSULTATION.*—*The discussion de-*
10 *scribed in subparagraph (A) shall be developed*
11 *in consultation with Federal and State tribal*
12 *wildlife, land management, and regulatory agen-*
13 *cies.*

14 “(3) *CONTENTS.*—*A transportation plan under*
15 *this subsection shall be in a form that the Secretary*
16 *determines to be appropriate and shall contain—*

17 “(A) *an identification of transportation fa-*
18 *cilities, including major roadways, transit,*
19 *multimodal and intermodal facilities, intermodal*
20 *connectors, and other relevant facilities identified*
21 *by the metropolitan planning organization,*
22 *which should function as an integrated metro-*
23 *politan transportation system, emphasizing those*
24 *facilities that serve important national and re-*
25 *gional transportation functions;*

1 “(B) a financial plan that—

2 “*(i) demonstrates how the adopted*
3 *transportation plan can be implemented;*

4 “*(ii) indicates resources from public*
5 *and private sources that are reasonably ex-*
6 *pected to be made available to carry out the*
7 *plan;*

8 “*(iii) recommends any additional fi-*
9 *ancing strategies for needed projects and*
10 *programs; and*

11 “*(iv) may include, for illustrative pur-*
12 *poses, additional projects that would be in-*
13 *cluded in the adopted transportation plan if*
14 *approved by the Secretary and reasonable*
15 *additional resources beyond those identified*
16 *in the financial plan were available;*

17 “(C) operational and management strate-
18 *gies to improve the performance of existing*
19 *transportation facilities to relieve vehicular con-*
20 *gestion and maximize the safety and mobility of*
21 *people and goods;*

22 “(D) capital investment and other strategies
23 *to preserve the existing metropolitan transpor-*
24 *tation infrastructure and provide for multimodal*

1 *capacity increases based on regional priorities*
2 *and needs; and*

3 “(E) *proposed transportation and transit*
4 *enhancement activities.*

5 “(4) *CONSULTATION.—*

6 “(A) *IN GENERAL.—In each metropolitan*
7 *area, the metropolitan planning organization*
8 *shall consult, as appropriate, with State and*
9 *local agencies responsible for land use manage-*
10 *ment, natural resources, environmental protec-*
11 *tion, conservation, and historic preservation con-*
12 *cerning the development of a long-range trans-*
13 *portation plan.*

14 “(B) *ISSUES.—The consultation shall in-*
15 *volve—*

16 “(i) *comparison of transportation*
17 *plans with State conservation plans or with*
18 *maps, if available;*

19 “(ii) *comparison of transportation*
20 *plans to inventories of natural or historic*
21 *resources, if available; or*

22 “(iii) *consideration of areas where*
23 *wildlife crossing structures may be needed*
24 *to ensure connectivity between wildlife habi-*
25 *tat linkage areas.*

1 “(5) *COORDINATION WITH CLEAN AIR ACT AGEN-*
2 *CIES.—In metropolitan areas in nonattainment for*
3 *ozone or carbon monoxide under the Clean Air Act*
4 *(42 U.S.C. 7401 et seq.), the metropolitan planning*
5 *organization shall coordinate the development of a*
6 *transportation plan with the process for development*
7 *of the transportation control measures of the State*
8 *implementation plan required by the Clean Air Act.*

9 “(6) *APPROVAL OF THE TRANSPORTATION*
10 *PLAN.—Each transportation plan prepared by a met-*
11 *ropolitan planning organization shall be—*

12 “(A) *approved by the metropolitan plan-*
13 *ning organization; and*

14 “(B) *submitted to the Governor for informa-*
15 *tion purposes at such time and in such manner*
16 *as the Secretary may reasonably require.*

17 “(i) *PARTICIPATION BY INTERESTED PARTIES.—*

18 “(1) *DEVELOPMENT OF PARTICIPATION PLAN.—*
19 *Not less frequently than every 4 years, each metropoli-*
20 *tan planning organization shall develop and adopt a*
21 *plan for participation in the process for developing*
22 *the metropolitan transportation plan and programs*
23 *by—*

24 “(A) *citizens;*

25 “(B) *affected public agencies;*

1 “(C) representatives of public transpor-
2 tation employees;

3 “(D) freight shippers;

4 “(E) providers of freight transportation
5 services;

6 “(F) private providers of transportation;

7 “(G) representatives of users of public tran-
8 sit;

9 “(H) representatives of users of pedestrian
10 walkways and bicycle transportation facilities;

11 and

12 “(I) other interested parties.

13 “(2) CONTENTS OF PARTICIPATION PLAN.—The
14 participation plan—

15 “(A) shall be developed in a manner the
16 Secretary determines to be appropriate;

17 “(B) shall be developed in consultation with
18 all interested parties; and

19 “(C) shall provide that all interested parties
20 have reasonable opportunities to comment on—

21 “(i) the process for developing the
22 transportation plan; and

23 “(ii) the contents of the transportation
24 plan.

1 “(3) *METHODS.*—*The participation plan shall*
2 *provide that the metropolitan planning organization*
3 *shall, to the maximum extent practicable—*

4 “(A) *hold any public meetings at convenient*
5 *and accessible locations and times;*

6 “(B) *employ visualization techniques to de-*
7 *scribe plans; and*

8 “(C) *make public information available in*
9 *electronically accessible format and means, such*
10 *as the World Wide Web.*

11 “(4) *CERTIFICATION.*—*Before the metropolitan*
12 *planning organizations approve a transportation*
13 *plan or program, each metropolitan planning organi-*
14 *zation shall certify that it has complied with the re-*
15 *quirements of the participation plan it has adopted.*

16 “(j) *TRANSPORTATION IMPROVEMENT PROGRAM.*—

17 “(1) *DEVELOPMENT AND UPDATE.*—

18 “(A) *IN GENERAL.*—*In cooperation with the*
19 *State and affected operators of public transpor-*
20 *tation, a metropolitan planning organization*
21 *designated for a metropolitan planning area*
22 *shall develop a transportation improvement pro-*
23 *gram for the area.*

24 “(B) *PARTICIPATION.*—*In developing the*
25 *transportation improvement program, the metro-*

1 *politan planning organization, in cooperation*
2 *with the Governor and any affected operator of*
3 *public transportation, shall provide an oppor-*
4 *tunity for participation by interested parties in*
5 *the development of the program, in accordance*
6 *with subsection (i).*

7 “(C) *UPDATES.*—*The transportation im-*
8 *provement program shall be updated not less*
9 *than once every 4 years and shall be approved*
10 *by the metropolitan planning organization and*
11 *the Governor.*

12 “(D) *FUNDING ESTIMATE.*—*In developing*
13 *the transportation improvement program, the*
14 *metropolitan planning organization, operators of*
15 *public transportation, and the State shall coop-*
16 *eratively develop estimates of funds that are rea-*
17 *sonably expected to be available to support pro-*
18 *gram implementation.*

19 “(E) *PROJECT ADVANCEMENT.*—*Projects*
20 *listed in the transportation improvement pro-*
21 *gram may be selected for advancement consistent*
22 *with the project selection requirements.*

23 “(F) *MAJOR AMENDMENTS.*—*Major amend-*
24 *ments to the list described in subparagraph (E),*
25 *including the addition, deletion, or concept and*

1 *scope change of a regionally significant project,*
2 *may not be advanced without—*

3 “(i) *appropriate public involvement;*

4 “(ii) *financial planning;*

5 “(iii) *transportation conformity anal-*
6 *yses; and*

7 “(iv) *a finding by the Federal High-*
8 *way Administration and Federal Transit*
9 *Administration that the amended plan was*
10 *produced in a manner consistent with this*
11 *section.*

12 “(2) *INCLUDED PROJECTS.—*

13 “(A) *PROJECTS UNDER CHAPTER 1 OF*
14 *TITLE 23 AND THIS CHAPTER.—A transportation*
15 *improvement program developed under this sec-*
16 *tion for a metropolitan area shall include the*
17 *projects and strategies within the metropolitan*
18 *area that are proposed for funding under chapter*
19 *1 of title 23 and this chapter.*

20 “(B) *PROJECTS UNDER CHAPTER 2 OF*
21 *TITLE 23.—*

22 “(i) *REGIONALLY SIGNIFICANT*
23 *PROJECTS.—Regionally significant projects*
24 *proposed for funding under chapter 2 of*
25 *title 23 shall be identified individually in*

1 *the metropolitan transportation improve-*
2 *ment program.*

3 “(ii) *OTHER PROJECTS.—Projects pro-*
4 *posed for funding under chapter 2 of title*
5 *23 that are not regionally significant shall*
6 *be grouped in 1 line item or identified indi-*
7 *vidually in the metropolitan transportation*
8 *improvement program.*

9 “(3) *SELECTION OF PROJECTS.—*

10 “(A) *IN GENERAL.—Except as otherwise*
11 *provided under subsection (k)(4), the selection of*
12 *federally funded projects in metropolitan plan-*
13 *ning areas shall be carried out, from the ap-*
14 *proved transportation plan—*

15 “(i) *by the State, in the case of projects*
16 *under chapter 1 of title 23 or section 5308,*
17 *5310, 5311, or 5317 of this title;*

18 “(ii) *by the designated recipient, in the*
19 *case of projects under section 5307; and*

20 “(iii) *in cooperation with the metro-*
21 *politan planning organization.*

22 “(B) *MODIFICATIONS TO PROJECT PRI-*
23 *ORITY.—Notwithstanding any other provision of*
24 *law, a project may be advanced from the trans-*
25 *portation improvement program in place of an-*

1 *other project in the same transportation im-*
2 *provement program without the approval of the*
3 *Secretary.*

4 “(4) *PUBLICATION REQUIREMENTS.—*

5 “(A) *PUBLICATION OF TRANSPORTATION IM-*
6 *PROVEMENT PROGRAM.—A transportation im-*
7 *provement program involving Federal participa-*
8 *tion shall be published or otherwise made readily*
9 *available by the metropolitan planning organiza-*
10 *tion for public review, including, to the max-*
11 *imum extent practicable, in electronically acces-*
12 *sible formats and means, such as the World Wide*
13 *Web.*

14 “(B) *PUBLICATION OF ANNUAL LISTINGS OF*
15 *PROJECTS.—An annual listing of projects, in-*
16 *cluding investments in pedestrian walkways and*
17 *bicycle transportation facilities, for which Fed-*
18 *eral funds have been obligated in the preceding*
19 *4 years shall be published or otherwise made*
20 *available for public review by the cooperative ef-*
21 *fort of the State, transit operator, and the metro-*
22 *politan planning organization. This listing shall*
23 *be consistent with the funding categories identi-*
24 *fied in the transportation improvement program.*

1 “(C) *RULEMAKING.*—Not later than 120
2 days after the date of enactment of the Federal
3 Public Transportation Act of 2004, the Secretary
4 shall issue regulations specifying—

5 “(i) the types of data to be included in
6 the list described in subparagraph (B), in-
7 cluding—

8 “(I) the name, type, purpose, and
9 geocoded location of each project;

10 “(II) the Federal, State, and local
11 identification numbers assigned to each
12 project;

13 “(III) amounts obligated and ex-
14 pended on each project, sorted by fund-
15 ing source and transportation mode,
16 and the date on which each obligation
17 was made; and

18 “(IV) the status of each project;
19 and

20 “(ii) the media through which the list
21 described in subparagraph (B) will be made
22 available to the public, including written
23 and visual components for each of the
24 projects listed.

25 “(k) *TRANSPORTATION MANAGEMENT AREAS.*—

1 “(1) *REQUIRED IDENTIFICATION.*—*The Secretary*
2 *shall identify each urbanized area with a population*
3 *of more than 200,000 individuals as a transportation*
4 *management area.*

5 “(2) *TRANSPORTATION PLANS AND PROGRAMS.*—
6 *Transportation plans and programs for a metropoli-*
7 *tan planning area serving a transportation manage-*
8 *ment area shall be based on a continuing and com-*
9 *prehensive transportation planning process carried*
10 *out by the metropolitan planning organization in co-*
11 *operation with the State and transit operators.*

12 “(3) *CONGESTION MANAGEMENT SYSTEM.*—

13 “(A) *IN GENERAL.*—*The transportation*
14 *planning process under this section shall address*
15 *congestion management through a process that*
16 *provides for effective management and operation,*
17 *based on a cooperatively developed and imple-*
18 *mented metropolitan-wide strategy, of new and*
19 *existing transportation facilities eligible for*
20 *funding under title 23 and this chapter through*
21 *the use of travel demand reduction and oper-*
22 *ational management strategies.*

23 “(B) *PHASE-IN SCHEDULE.*—*The Secretary*
24 *shall establish a phase-in schedule that provides*
25 *for full compliance with the requirements of this*

1 *section not later than 1 year after the identifica-*
2 *tion of transportation management areas under*
3 *paragraph (1).*

4 “(4) *SELECTION OF PROJECTS.—*

5 “(A) *IN GENERAL.—All federally funded*
6 *projects carried out within the boundaries of a*
7 *metropolitan planning area serving a transpor-*
8 *tation management area under title 23 (except*
9 *for projects carried out on the National Highway*
10 *System and projects carried out under the bridge*
11 *program or the interstate maintenance program)*
12 *or under this chapter shall be selected for imple-*
13 *mentation from the approved transportation im-*
14 *provement program by the metropolitan plan-*
15 *ning organization designated for the area in con-*
16 *sultation with the State and any affected public*
17 *transit operator.*

18 “(B) *NATIONAL HIGHWAY SYSTEM*
19 *PROJECTS.—Projects on the National Highway*
20 *System carried out within the boundaries of a*
21 *metropolitan planning area serving a transpor-*
22 *tation management area and projects carried out*
23 *within such boundaries under the bridge pro-*
24 *gram or the interstate maintenance program*
25 *under title 23 shall be selected for implementa-*

1 tion from the approved transportation improve-
2 ment program by the State in cooperation with
3 the metropolitan planning organization des-
4 ignated for the area.

5 “(5) CERTIFICATION.—

6 “(A) IN GENERAL.—The Secretary shall—

7 “(i) ensure that the metropolitan plan-
8 ning process of a metropolitan planning or-
9 ganization serving a transportation man-
10 agement area is being carried out in ac-
11 cordance with Federal law; and

12 “(ii) subject to subparagraph (B), cer-
13 tify, not less frequently than once every 4
14 years in nonattainment and maintenance
15 areas (as defined under the Clean Air Act)
16 and not less frequently than once every 5
17 years in attainment areas (as defined under
18 such Act), that the requirements of this
19 paragraph are met with respect to the met-
20 ropolitan planning process.

21 “(B) REQUIREMENTS FOR CERTIFI-
22 CATION.—The Secretary may make the certifi-
23 cation under subparagraph (A) if—

24 “(i) the transportation planning proc-
25 ess complies with the requirements of this

1 *section and all other applicable Federal*
2 *law; and*

3 “(ii) *a transportation plan and a*
4 *transportation improvement program for*
5 *the metropolitan planning area have been*
6 *approved by the metropolitan planning or-*
7 *ganization and the Governor.*

8 “(C) *PENALTY FOR FAILING TO CERTIFY.—*

9 “(i) *WITHHOLDING PROJECT FUNDS.—*
10 *If the metropolitan planning process of a*
11 *metropolitan planning organization serving*
12 *a transportation management area is not*
13 *certified, the Secretary may withhold any*
14 *funds otherwise available to the metropoli-*
15 *tan planning area for projects funded under*
16 *title 23 and this chapter.*

17 “(ii) *RESTORATION OF WITHHELD*
18 *FUNDS.—Any funds withheld under clause*
19 *(i) shall be restored to the metropolitan*
20 *planning area when the metropolitan plan-*
21 *ning process is certified by the Secretary.*

22 “(D) *REVIEW OF CERTIFICATION.—In mak-*
23 *ing a certification under this paragraph, the*
24 *Secretary shall provide for public involvement*

1 *appropriate to the metropolitan area under re-*
2 *view.*

3 “(l) *ABBREVIATED PLANS FOR CERTAIN AREAS.*—

4 “(1) *IN GENERAL.*—*Subject to paragraph (2), in*
5 *the case of a metropolitan area not designated as a*
6 *transportation management area under this section,*
7 *the Secretary may provide for the development of an*
8 *abbreviated transportation plan and transportation*
9 *improvement program for the metropolitan planning*
10 *area that the Secretary determines is appropriate to*
11 *achieve the purposes of this section, after considering*
12 *the complexity of transportation problems in the area.*

13 “(2) *NONATTAINMENT AREAS.*—*The Secretary*
14 *may not permit abbreviated plans for a metropolitan*
15 *area that is in nonattainment for ozone or carbon*
16 *monoxide under the Clean Air Act (42 U.S.C. 7401*
17 *et seq.).*

18 “(m) *ADDITIONAL REQUIREMENTS FOR CERTAIN NON-*
19 *ATTAINMENT AREAS.*—

20 “(1) *IN GENERAL.*—*Notwithstanding any other*
21 *provisions of title 23 or this chapter, Federal funds*
22 *may not be advanced for transportation management*
23 *areas classified as nonattainment for ozone or carbon*
24 *monoxide pursuant to the Clean Air Act (42 U.S.C.*
25 *7401 et seq.) for any highway project that will result*

1 *in a significant increase in carrying capacity for sin-*
2 *gle-occupant vehicles unless the project is addressed*
3 *through a congestion management process.*

4 “(2) *APPLICABILITY.—This subsection applies to*
5 *any nonattainment area within the metropolitan*
6 *planning area boundaries determined under sub-*
7 *section (d).*

8 “(n) *LIMITATION ON STATUTORY CONSTRUCTION.—*
9 *Nothing in this section shall be construed to confer on a*
10 *metropolitan planning organization the authority to im-*
11 *pose legal requirements on any transportation facility, pro-*
12 *vider, or project that is not eligible under title 23 or this*
13 *chapter.*

14 “(o) *AVAILABILITY OF FUNDS.—Funds set aside under*
15 *section 104(f) of title 23 or section 5308 of this title shall*
16 *be available to carry out this section.*

17 “(p) *CONTINUATION OF CURRENT REVIEW PRAC-*
18 *TICE.—Any decision by the Secretary concerning a plan or*
19 *program described in this section shall not be considered*
20 *to be a Federal action subject to review under the National*
21 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
22 *seq.).”.*

23 **SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.**

24 *Section 5304 is amended to read as follows:*

1 **“§ 5304. Statewide transportation planning**

2 “(a) *GENERAL REQUIREMENTS.*—

3 “(1) *DEVELOPMENT OF PLANS AND PROGRAMS.*—

4 *To support the policies described in section 5301(a),*
5 *each State shall develop a statewide transportation*
6 *plan (referred to in this section as a “Plan”) and a*
7 *statewide transportation improvement program (re-*
8 *ferred to in this section as a “Program”) for all areas*
9 *of the State subject to section 5303.*

10 “(2) *CONTENTS.*—*The Plan and the Program de-*
11 *veloped for each State shall provide for the develop-*
12 *ment and integrated management and operation of*
13 *transportation systems and facilities (including pe-*
14 *destrian walkways and bicycle transportation facili-*
15 *ties) that will function as an intermodal transpor-*
16 *tation system for the State and an integral part of*
17 *an intermodal transportation system for the United*
18 *States.*

19 “(3) *PROCESS OF DEVELOPMENT.*—*The process*
20 *for developing the Plan and the Program shall—*

21 “(A) *provide for the consideration of all*
22 *modes of transportation and the policies de-*
23 *scribed in section 5301(a); and*

24 “(B) *be continuing, cooperative, and com-*
25 *prehensive to the degree appropriate, based on*

1 *the complexity of the transportation problems to*
2 *be addressed.*

3 “(b) *COORDINATION WITH METROPOLITAN PLANNING;*
4 *STATE IMPLEMENTATION PLAN.—Each State shall—*

5 “(1) *coordinate planning under this section*
6 *with—*

7 “(A) *the transportation planning activities*
8 *under section 5303 for metropolitan areas of the*
9 *State; and*

10 “(B) *other related statewide planning ac-*
11 *tivities, including trade and economic develop-*
12 *ment and related multistate planning efforts;*
13 *and*

14 “(2) *develop the transportation portion of the*
15 *State implementation plan, as required by the Clean*
16 *Air Act (42 U.S.C. 7401 et seq.).*

17 “(c) *INTERSTATE AGREEMENTS.—States may enter*
18 *into agreements or compacts with other States for coopera-*
19 *tive efforts and mutual assistance in support of activities*
20 *authorized under this section related to interstate areas and*
21 *localities in the States and establishing authorities the*
22 *States consider desirable for making the agreements and*
23 *compacts effective.*

24 “(d) *SCOPE OF PLANNING PROCESS.—*

1 “(1) *IN GENERAL.*—*Each State shall carry out a*
2 *statewide transportation planning process that pro-*
3 *vides for the consideration of projects, strategies, and*
4 *implementing projects and services that will—*

5 “(A) *support the economic vitality of the*
6 *United States, the States, nonmetropolitan areas,*
7 *and metropolitan areas, especially by enabling*
8 *global competitiveness, productivity, and effi-*
9 *ciency;*

10 “(B) *increase the safety of the transpor-*
11 *tation system for motorized and nonmotorized*
12 *users;*

13 “(C) *increase the security of the transpor-*
14 *tation system for motorized and nonmotorized*
15 *users;*

16 “(D) *increase the accessibility and mobility*
17 *of people and freight;*

18 “(E) *protect and enhance the environment*
19 *(including the protection of habitat, water qual-*
20 *ity, and agricultural and forest land, while*
21 *minimizing invasive species), promote energy*
22 *conservation, promote consistency between trans-*
23 *portation improvements and State and local*
24 *land use planning and economic development*
25 *patterns, and improve the quality of life (includ-*

1 *ing minimizing adverse health effects from mo-*
2 *bile source air pollution and promoting the link-*
3 *age of the transportation and development goals*
4 *of the State);*

5 *“(F) enhance the integration and*
6 *connectivity of the transportation system, across*
7 *and between modes throughout the State, for peo-*
8 *ple and freight;*

9 *“(G) promote efficient system management*
10 *and operation; and*

11 *“(H) emphasize the preservation and effi-*
12 *cient use of the existing transportation system.*

13 *“(2) SELECTION OF PROJECTS AND STRATE-*
14 *GIES.—After soliciting and considering any relevant*
15 *public comments, the State shall determine which of*
16 *the projects and strategies described in paragraph (1)*
17 *are most appropriate.*

18 *“(3) MITIGATION ACTIVITIES.—*

19 *“(A) IN GENERAL.—A transportation plan*
20 *under this subsection shall include a discussion*
21 *of—*

22 *“(i) types of potential habitat,*
23 *hydrological, and environmental mitigation*
24 *activities that may assist in compensating*

1 *for loss of habitat, wetland, and other envi-*
2 *ronmental functions; and*

3 “(ii) *potential areas to carry out these*
4 *activities, including a discussion of areas*
5 *that may have the greatest potential to re-*
6 *store and maintain the habitat types and*
7 *hydrological or environmental functions af-*
8 *ected by the plan.*

9 “(B) *CONSULTATION.*—*The discussion de-*
10 *scribed in subparagraph (A) shall be developed*
11 *in consultation with Federal and State tribal*
12 *wildlife, land management, and regulatory agen-*
13 *cies.*

14 “(4) *FAILURE TO CONSIDER FACTORS.*—*The fail-*
15 *ure to consider any factor described in paragraph (1)*
16 *shall not be reviewable by any court under title 23,*
17 *this title, subchapter II of chapter 5 of title 5, or*
18 *chapter 7 of title 5 in any matter affecting a Plan,*
19 *a Program, a project or strategy, or the certification*
20 *of a planning process.*

21 “(e) *ADDITIONAL REQUIREMENTS.*—*In carrying out*
22 *planning under this section, each State shall consider—*

23 “(1) *with respect to nonmetropolitan areas, the*
24 *concerns of affected local officials with responsibility*
25 *for transportation;*

1 “(2) *the concerns of Indian tribal governments*
2 *and Federal land management agencies that have ju-*
3 *risdiction over land within the boundaries of the*
4 *State; and*

5 “(3) *coordination of Plans, Programs, and plan-*
6 *ning activities with related planning activities being*
7 *carried out outside of metropolitan planning areas*
8 *and between States.*

9 “(f) *STATEWIDE TRANSPORTATION PLAN.—*

10 “(1) *DEVELOPMENT.—Each State shall develop a*
11 *Plan, with a minimum 20-year forecast period for all*
12 *areas of the State, that provides for the development*
13 *and implementation of the intermodal transportation*
14 *system of the State.*

15 “(2) *CONSULTATION WITH GOVERNMENTS.—*

16 “(A) *METROPOLITAN PLANNING AREAS.—*
17 *The Plan shall be developed for each metropoli-*
18 *tan planning area in the State in cooperation*
19 *with the metropolitan planning organization*
20 *designated for the metropolitan planning area*
21 *under section 5303.*

22 “(B) *NONMETROPOLITAN AREAS.—With re-*
23 *spect to nonmetropolitan areas, the statewide*
24 *transportation plan shall be developed in con-*
25 *sultation with affected nonmetropolitan officials*

1 *with responsibility for transportation. The con-*
2 *sultation process shall not require the review or*
3 *approval of the Secretary.*

4 “(C) *INDIAN TRIBAL AREAS.*—*With respect*
5 *to each area of the State under the jurisdiction*
6 *of an Indian tribal government, the Plan shall*
7 *be developed in consultation with the tribal gov-*
8 *ernment and the Secretary of the Interior.*

9 “(D) *CONSULTATION, COMPARISON, AND*
10 *CONSIDERATION.*—

11 “(i) *IN GENERAL.*—*The Plan shall be*
12 *developed, as appropriate, in consultation*
13 *with State and local agencies responsible*
14 *for—*

15 “(I) *land use management;*

16 “(II) *natural resources;*

17 “(III) *environmental protection;*

18 “(IV) *conservation; and*

19 “(V) *historic preservation.*

20 “(ii) *COMPARISON AND CONSIDER-*
21 *ATION.*—*Consultation under clause (i) shall*
22 *involve—*

23 “(I) *comparison of transportation*
24 *plans to State conservation plans or*
25 *maps, if available;*

1 “(II) comparison of transpor-
2 tation plans to inventories of natural
3 or historic resources, if available; or

4 “(III) consideration of areas
5 where wildlife crossing structures may
6 be needed to ensure connectivity be-
7 tween wildlife habitat linkage areas.

8 “(3) PARTICIPATION BY INTERESTED PARTIES.—

9 *In developing the Plan, the State shall—*

10 “(A) provide citizens, affected public agen-
11 cies, representatives of public transportation em-
12 ployees, freight shippers, private providers of
13 transportation, representatives of users of public
14 transportation, representatives of users of pedes-
15 trian walkways and bicycle transportation fa-
16 cilities, providers of freight transportation serv-
17 ices, and other interested parties with a reason-
18 able opportunity to comment on the proposed
19 Plan; and

20 “(B) to the maximum extent practicable—

21 “(i) hold any public meetings at con-
22 venient and accessible locations and times;

23 “(ii) employ visualization techniques
24 to describe plans; and

1 “(iii) make public information avail-
2 able in electronically accessible format and
3 means, such as the World Wide Web.

4 “(4) MITIGATION ACTIVITIES.—

5 “(A) IN GENERAL.—A Plan shall include a
6 discussion of—

7 “(i) types of potential habitat,
8 hydrological, and environmental mitigation
9 activities that may assist in compensating
10 for loss of habitat, wetlands, and other envi-
11 ronmental functions; and

12 “(ii) potential areas to carry out these
13 activities, including a discussion of areas
14 that may have the greatest potential to re-
15 store and maintain the habitat types and
16 hydrological or environmental functions af-
17 fected by the plan.

18 “(B) CONSULTATION.—The discussion de-
19 scribed in subparagraph (A) shall be developed
20 in consultation with Federal and State tribal
21 wildlife, land management, and regulatory agen-
22 cies.

23 “(5) TRANSPORTATION STRATEGIES.—A Plan
24 shall identify transportation strategies necessary to
25 efficiently serve the mobility needs of people.

1 “(6) *FINANCIAL PLAN.*—*The Plan may include a*
2 *financial plan that—*

3 “(A) *demonstrates how the adopted Plan*
4 *can be implemented;*

5 “(B) *indicates resources from public and*
6 *private sources that are reasonably expected to be*
7 *made available to carry out the Plan;*

8 “(C) *recommends any additional financing*
9 *strategies for needed projects and programs; and*

10 “(D) *may include, for illustrative purposes,*
11 *additional projects that would be included in the*
12 *adopted Plan if reasonable additional resources*
13 *beyond those identified in the financial plan*
14 *were available.*

15 “(7) *SELECTION OF PROJECTS FROM ILLUS-*
16 *TRATIVE LIST.*—*A State shall not be required to select*
17 *any project from the illustrative list of additional*
18 *projects described in paragraph (6)(D).*

19 “(8) *EXISTING SYSTEM.*—*The Plan should in-*
20 *clude capital, operations and management strategies,*
21 *investments, procedures, and other measures to ensure*
22 *the preservation and most efficient use of the existing*
23 *transportation system.*

24 “(9) *PUBLICATION OF LONG-RANGE TRANSPOR-*
25 *TATION PLANS.*—*Each Plan prepared by a State shall*

1 *be published or otherwise made available, including,*
2 *to the maximum extent practicable, in electronically*
3 *accessible formats and means, such as the World Wide*
4 *Web.*

5 “(g) *STATEWIDE TRANSPORTATION IMPROVEMENT*
6 *PROGRAM.—*

7 “(1) *DEVELOPMENT.—Each State shall develop a*
8 *Program for all areas of the State.*

9 “(2) *CONSULTATION WITH GOVERNMENTS.—*

10 “(A) *METROPOLITAN PLANNING AREAS.—*
11 *With respect to each metropolitan planning area*
12 *in the State, the Program shall be developed in*
13 *cooperation with the metropolitan planning or-*
14 *ganization designated for the metropolitan plan-*
15 *ning area under section 5303.*

16 “(B) *NONMETROPOLITAN AREAS.—With re-*
17 *spect to each nonmetropolitan area in the State,*
18 *the Program shall be developed in consultation*
19 *with affected nonmetropolitan local officials with*
20 *responsibility for transportation. The consulta-*
21 *tion process shall not require the review or ap-*
22 *proval of the Secretary.*

23 “(C) *INDIAN TRIBAL AREAS.—With respect*
24 *to each area of the State under the jurisdiction*
25 *of an Indian tribal government, the Program*

1 *shall be developed in consultation with the tribal*
2 *government and the Secretary of the Interior.*

3 “(3) *PARTICIPATION BY INTERESTED PARTIES.—*

4 *In developing the Program, the State shall provide*
5 *citizens, affected public agencies, representatives of*
6 *public transportation employees, freight shippers, pri-*
7 *vate providers of transportation, providers of freight*
8 *transportation services, representatives of users of*
9 *public transit, representatives of users of pedestrian*
10 *walkways and bicycle transportation facilities, and*
11 *other interested parties with a reasonable opportunity*
12 *to comment on the proposed Program.*

13 “(4) *INCLUDED PROJECTS.—*

14 “(A) *IN GENERAL.—A Program developed*
15 *under this subsection for a State shall include*
16 *federally supported surface transportation ex-*
17 *penditures within the boundaries of the State.*

18 “(B) *LISTING OF PROJECTS.—*

19 “(i) *IN GENERAL.—The Program shall*
20 *cover a minimum of 4 years, identify*
21 *projects by year, be fiscally constrained by*
22 *year, and be updated not less than once*
23 *every 4 years.*

24 “(ii) *PUBLICATION.—An annual list-*
25 *ing of projects for which funds have been ob-*

1 *ligated in the preceding 4 years in each*
2 *metropolitan planning area shall be pub-*
3 *lished or otherwise made available by the*
4 *cooperative effort of the State, transit oper-*
5 *ator, and the metropolitan planning organi-*
6 *zation for public review. The listing shall be*
7 *consistent with the funding categories iden-*
8 *tified in each metropolitan transportation*
9 *improvement program.*

10 “(C) *INDIVIDUAL IDENTIFICATION.*—

11 “(i) *REGIONALLY SIGNIFICANT*
12 *PROJECTS.*—*Regionally significant projects*
13 *proposed for funding under chapter 2 of*
14 *title 23 shall be identified individually in*
15 *the transportation improvement program.*

16 “(ii) *OTHER PROJECTS.*—*Projects pro-*
17 *posed for funding under chapter 2 of title*
18 *23 that are not determined to be regionally*
19 *significant shall be grouped in 1 line item*
20 *or identified individually.*

21 “(D) *CONSISTENCY WITH STATEWIDE*
22 *TRANSPORTATION PLAN.*—*Each project included*
23 *in the list described in subparagraph (B) shall*
24 *be—*

1 “(i) consistent with the Plan developed
2 under this section for the State;

3 “(ii) identical to the project or phase of
4 the project as described in each year of the
5 approved metropolitan transportation im-
6 provement program; and

7 “(iii) in conformance with the applica-
8 ble State air quality implementation plan
9 developed under the Clean Air Act (42
10 U.S.C. 7401 et seq.), if the project is carried
11 out in an area designated as nonattainment
12 for ozone or carbon monoxide under that
13 Act.

14 “(E) *REQUIREMENT OF ANTICIPATED FULL*
15 *FUNDING.*—The Program shall not include a
16 project, or an identified phase of a project, unless
17 full funding can reasonably be anticipated to be
18 available for the project within the time period
19 contemplated for completion of the project.

20 “(F) *FINANCIAL PLAN.*—The Program may
21 include a financial plan that—

22 “(i) demonstrates how the approved
23 Program can be implemented;

24 “(ii) indicates resources from public
25 and private sources that are reasonably ex-

1 pected to be made available to carry out the
2 Program;

3 “(iii) recommends any additional fi-
4 nancing strategies for needed projects and
5 programs; and

6 “(iv) may include, for illustrative pur-
7 poses, additional projects that would be in-
8 cluded in the adopted transportation plan if
9 reasonable additional resources beyond those
10 identified in the financial plan were avail-
11 able.

12 “(G) SELECTION OF PROJECTS FROM ILLUS-
13 TRATIVE LIST.—

14 “(i) NO REQUIRED SELECTION.—Not-
15 withstanding subparagraph (F), a State
16 shall not be required to select any project
17 from the illustrative list of additional
18 projects described in subparagraph (F)(iv).

19 “(ii) REQUIRED APPROVAL BY THE
20 SECRETARY.—A State shall not include any
21 project from the illustrative list of addi-
22 tional projects described in subparagraph
23 (F)(iv) in an approved Program without
24 the approval of the Secretary.

1 “(H) *PRIORITIES.*—*The Program shall re-*
2 *fect the priorities for programming and expend-*
3 *itures of funds, including transportation and*
4 *transit enhancement activities, required by title*
5 *23 and this chapter, and transportation control*
6 *measures included in the State’s air quality im-*
7 *plementation plan.*

8 “(5) *PROJECT SELECTION FOR AREAS WITH*
9 *FEWER THAN 50,000 INDIVIDUALS.*—

10 “(A) *IN GENERAL.*—*Each State, in coopera-*
11 *tion with the affected nonmetropolitan local offi-*
12 *cial with responsibility for transportation, shall*
13 *select projects to be carried out in areas with*
14 *fewer than 50,000 individuals from the approved*
15 *Program (excluding projects carried out under*
16 *the National Highway System, the bridge pro-*
17 *gram, or the interstate maintenance program*
18 *under title 23 or sections 5310 and 5311 of this*
19 *title).*

20 “(B) *CERTAIN PROGRAMS.*—*Each State, in*
21 *consultation with the affected nonmetropolitan*
22 *local officials with responsibility for transpor-*
23 *tation, shall select, from the approved Program,*
24 *projects to be carried out in areas with fewer*
25 *than 50,000 individuals under the National*

1 *Highway System, the bridge program, or the*
2 *Interstate maintenance program under title 23*
3 *or under sections 5310 and 5311 of this title.*

4 “(6) *STATEWIDE TRANSPORTATION IMPROVE-*
5 *MENT PROGRAM APPROVAL.—A Program developed*
6 *under this subsection shall be reviewed and based on*
7 *a current planning finding approved by the Secretary*
8 *not less frequently than once every 4 years.*

9 “(7) *PLANNING FINDING.—Not less frequently*
10 *than once every 4 years, the Secretary shall determine*
11 *whether the transportation planning process through*
12 *which Plans and Programs are developed are con-*
13 *sistent with this section and section 5303.*

14 “(8) *MODIFICATIONS TO PROJECT PRIORITY.—*
15 *Notwithstanding any other provision of law, a project*
16 *included in the approved Program may be advanced*
17 *in place of another project in the program without the*
18 *approval of the Secretary.*

19 “(h) *FUNDING.—Funds set aside pursuant to section*
20 *104(i) of title 23 and 5308 of this title shall be available*
21 *to carry out this section.*

22 “(i) *TREATMENT OF CERTAIN STATE LAWS AS CON-*
23 *GESTION MANAGEMENT SYSTEMS.—For purposes of this*
24 *section and section 5303, State laws, rules, or regulations*
25 *pertaining to congestion management systems or programs*

1 *may constitute the congestion management system under*
 2 *section 5303(i)(3) if the Secretary determines that the State*
 3 *laws, rules, or regulations are consistent with, and fulfill*
 4 *the intent of, the purposes of section 5303.*

5 “(j) *CONTINUATION OF CURRENT REVIEW PRAC-*
 6 *TICE.—Any decision by the Secretary under this section,*
 7 *regarding a metropolitan or statewide transportation plan*
 8 *or the Program, shall not be considered to be a Federal ac-*
 9 *tion subject to review under the National Environmental*
 10 *Policy Act of 1969 (42 U.S.C. 4321 et seq.).”*

11 **SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.**

12 *Section 5305 is repealed.*

13 **SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.**

14 *Section 5306 is amended—*

15 *(1) in subsection (a)—*

16 *(A) by striking “5305 of this title” and in-*
 17 *serting “5308”; and*

18 *(B) by inserting “, as determined by local*
 19 *policies, criteria, and decision making,” after*
 20 *“feasible”;*

21 *(2) in subsection (b) by striking “5303–5305 of*
 22 *this title” and inserting “5303, 5304, and 5308”; and*

23 *(3) by adding at the end the following:*

24 “(c) *REGULATIONS.—Not later than 1 year after the*
 25 *date of enactment of the Federal Public Transportation Act*

1 of 2004, the Secretary shall issue regulations describing how
2 the requirements under this chapter relating to subsection
3 (a) shall be enforced.”.

4 **SEC. 3009. URBANIZED AREA FORMULA GRANTS.**

5 (a) *TECHNICAL AMENDMENTS.*—Section 5307 is
6 amended—

7 (1) by striking subsections (h), (j) and (k); and

8 (2) by redesignating subsections (i), (l), (m), and
9 (n) as subsections (h), (i), (j), and (k), respectively.

10 (b) *DEFINITIONS.*—Section 5307(a) is amended—

11 (1) by amending paragraph (2)(A) to read as
12 follows:

13 “(A) an entity designated, in accordance
14 with the planning process under sections 5303,
15 5304, and 5306, by the chief executive officer of
16 a State, responsible local officials, and publicly
17 owned operators of public transportation, to re-
18 ceive and apportion amounts under sections
19 5336 and 5337 that are attributable to transpor-
20 tation management areas designated under sec-
21 tion 5303; or”;

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

23 “(3) *SUBRECIPIENT.*—The term ‘subrecipient’
24 means a State or local governmental authority, a
25 nonprofit organization, or a private operator of pub-

1 *lic transportation service that may receive a Federal*
2 *transit program grant indirectly through a recipient,*
3 *rather than directly from the Federal Government.”.*

4 *(c) GENERAL AUTHORITY.—Section 5307(b) is amend-*
5 *ed—*

6 *(1) by amending paragraph (1) to read as fol-*
7 *lows:*

8 *“(1) IN GENERAL.—The Secretary of Transpor-*
9 *tation may award grants under this section for—*

10 *“(A) capital projects, including associated*
11 *capital maintenance items;*

12 *“(B) planning, including mobility manage-*
13 *ment;*

14 *“(C) transit enhancements;*

15 *“(D) operating costs of equipment and fa-*
16 *ilities for use in public transportation in an ur-*
17 *banized area with a population of less than*
18 *200,000; and*

19 *“(E) operating costs of equipment and fa-*
20 *ilities for use in public transportation in a por-*
21 *tion or portions of an urbanized area with a*
22 *population of at least 200,000, but not more*
23 *than 225,000, if—*

24 *“(i) the urbanized area includes parts*
25 *of more than 1 State;*

1 “(ii) the portion of the urbanized area
2 includes only 1 State;

3 “(iii) the population of the portion of
4 the urbanized area is less than 30,000; and

5 “(iv) the grants will not be used to
6 provide public transportation outside of the
7 portion of the urbanized area.”;

8 (2) by amending paragraph (2) to read as fol-
9 lows:

10 “(2) *SPECIAL RULE FOR FISCAL YEARS 2004*
11 *THROUGH 2006—*

12 “(A) *INCREASED FLEXIBILITY.—The Sec-*
13 *retary may award grants under this section,*
14 *from funds made available to carry out this sec-*
15 *tion for each of the fiscal years 2004 through*
16 *2006, to finance the operating cost of equipment*
17 *and facilities for use in mass transportation in*
18 *an urbanized area with a population of at least*
19 *200,000, as determined by the 2000 decennial*
20 *census of population if—*

21 “(i) the urbanized area had a popu-
22 lation of less than 200,000, as determined
23 by the 1990 decennial census of population;

24 “(ii) a portion of the urbanized area
25 was a separate urbanized area with a popu-

1 *lation of less than 200,000, as determined*
2 *by the 1990 decennial census of population;*

3 *“(iii) the area was not designated as*
4 *an urbanized area, as determined by the*
5 *1990 decennial census of population; or*

6 *“(iv) a portion of the area was not des-*
7 *ignated as an urbanized area, as deter-*
8 *mined by the 1990 decennial census, and re-*
9 *ceived assistance under section 5311 in fis-*
10 *cal year 2002.*

11 *“(B) MAXIMUM AMOUNTS IN FISCAL YEAR*
12 *2004.—In fiscal year 2004—*

13 *“(i) amounts made available to any*
14 *urbanized area under clause (i) or (ii) of*
15 *subparagraph (A) shall be not more than*
16 *the amount apportioned in fiscal year 2002*
17 *to the urbanized area with a population of*
18 *less than 200,000, as determined in the*
19 *1990 decennial census of population;*

20 *“(ii) amounts made available to any*
21 *urbanized area under subparagraph (A)(iii)*
22 *shall be not more than the amount appor-*
23 *tioned to the urbanized area under this sec-*
24 *tion for fiscal year 2003; and*

1 “(iii) each portion of any area not des-
2 ignated as an urbanized area, as deter-
3 mined by the 1990 decennial census, and el-
4 igible to receive funds under subparagraph
5 (A)(iv), shall receive an amount of funds to
6 carry out this section that is not less than
7 the amount the portion of the area received
8 under section 5311 for fiscal year 2002.

9 “(C) *MAXIMUM AMOUNTS IN FISCAL YEAR*
10 *2005.—In fiscal year 2005—*

11 “(i) amounts made available to any
12 urbanized area under clause (i) or (ii) of
13 subparagraph (A) shall be not more than 50
14 percent of the amount apportioned in fiscal
15 year 2002 to the urbanized area with a
16 population of less than 200,000, as deter-
17 mined in the 1990 decennial census of pop-
18 ulation;

19 “(ii) amounts made available to any
20 urbanized area under subparagraph (A)(iii)
21 shall be not more than 50 percent of the
22 amount apportioned to the urbanized area
23 under this section for fiscal year 2003; and

24 “(iii) each portion of any area not des-
25 ignated as an urbanized area, as deter-

1 *mined by the 1990 decennial census, and el-*
2 *igible to receive funds under subparagraph*
3 *(A)(iv), shall receive an amount of funds to*
4 *carry out this section that is not less 50*
5 *percent of the amount the portion of the*
6 *area received under section 5311 for fiscal*
7 *year 2002.*

8 *“(D) MAXIMUM AMOUNTS IN FISCAL YEAR*
9 *2006.—In fiscal year 2006—*

10 *“(i) amounts made available to any*
11 *urbanized area under clause (i) or (ii) of*
12 *subparagraph (A) shall be not more than 25*
13 *percent of the amount apportioned in fiscal*
14 *year 2002 to the urbanized area with a*
15 *population of less than 200,000, as deter-*
16 *mined in the 1990 decennial census of pop-*
17 *ulation;*

18 *“(ii) amounts made available to any*
19 *urbanized area under subparagraph (A)(iii)*
20 *shall be not more than 25 percent of the*
21 *amount apportioned to the urbanized area*
22 *under this section for fiscal year 2003; and*

23 *“(iii) each portion of any area not des-*
24 *ignated as an urbanized area, as deter-*
25 *mined by the 1990 decennial census, and el-*

1 *igible to receive funds under subparagraph*
2 *(A)(iv), shall receive an amount of funds to*
3 *carry out this section that is not less than*
4 *25 percent of the amount the portion of the*
5 *area received under section 5311 in fiscal*
6 *year 2002.”; and*

7 *(3) by striking paragraph (4).*

8 *(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section*
9 *5307(c)(5) is amended by striking “section 5336” and in-*
10 *serting “sections 5336 and 5337”.*

11 *(e) GRANT RECIPIENT REQUIREMENTS.—Section*
12 *5307(d)(1) is amended—*

13 *(1) in subparagraph (A), by inserting “, includ-*
14 *ing safety and security aspects of the program” after*
15 *“program”;*

16 *(2) in subparagraph (E), by striking “section”*
17 *and all that follows and inserting “section, the recipi-*
18 *ent will comply with sections 5323 and 5325;”;*

19 *(3) in subparagraph (H), by striking “sections*
20 *5301(a) and (d), 5303-5306, and 5310(a)-(d) of this*
21 *title” and inserting “subsections (a) and (d) of section*
22 *5301 and sections 5303 through 5306”;*

23 *(4) in subparagraph (I) by striking “and” at the*
24 *end;*

1 (5) in subparagraph (J), by striking the period
2 at the end and inserting “; and”; and

3 (6) by adding at the end the following:

4 “(K) if located in an urbanized area with
5 a population of at least 200,000, will expend not
6 less than 1 percent of the amount the recipient
7 receives each fiscal year under this section for
8 transit enhancement activities described in sec-
9 tion 5302(a)(15).”.

10 (f) *GOVERNMENT’S SHARE OF COSTS.*—Section
11 5307(e) is amended—

12 (1) by striking the first sentence and inserting
13 the following:

14 “(1) *CAPITAL PROJECTS.*—A grant for a capital
15 project under this section shall cover 80 percent of the
16 net project cost.”;

17 (2) by striking “A grant for operating expenses”
18 and inserting the following:

19 “(2) *OPERATING EXPENSES.*—A grant for oper-
20 ating expenses”;

21 (3) by striking the fourth sentence and inserting
22 the following:

23 “(3) *REMAINING COSTS.*—The remainder of the
24 net project cost shall be provided in cash from non-
25 Federal sources or revenues derived from the sale of

1 *advertising and concessions and amounts received*
2 *under a service agreement with a State or local social*
3 *service agency or a private social service organiza-*
4 *tion.”; and*

5 *(4) by adding at the end the following: “The pro-*
6 *hibitions on the use of funds for matching require-*
7 *ments under section 403(a)(5)(C)(vii) of the Social*
8 *Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not*
9 *apply to the remainder.”.*

10 *(g) UNDERTAKING PROJECTS IN ADVANCE.—Section*
11 *5307(g) is amended by striking paragraph (4).*

12 *(h) RELATIONSHIP TO OTHER LAWS.—Section*
13 *5307(k), as redesignated, is amended to read as follows:*

14 *“(k) RELATIONSHIP TO OTHER LAWS.—*

15 *“(1) APPLICABLE PROVISIONS.—Sections 5301,*
16 *5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323,*
17 *5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335*
18 *apply to this section and to any grant made under*
19 *this section.*

20 *“(2) INAPPLICABLE PROVISIONS.—*

21 *“(A) IN GENERAL.—Except as provided*
22 *under this section, no other provision of this*
23 *chapter applies to this section or to a grant*
24 *made under this section.*

1 “(B) *TITLE 5.*—*The provision of assistance*
2 *under this chapter shall not be construed as*
3 *bringing within the application of chapter 15 of*
4 *title 5, any nonsupervisory employee of a public*
5 *transportation system (or any other agency or*
6 *entity performing related functions) to which*
7 *such chapter is otherwise inapplicable.*”.

8 **SEC. 3010. PLANNING PROGRAMS.**

9 (a) *IN GENERAL.*—*Section 5308 is amended to read*
10 *as follows:*

11 **“§ 5308. Planning programs**

12 “(a) *GRANTS AUTHORIZED.*—*Under criteria estab-*
13 *lished by the Secretary, the Secretary may award grants*
14 *to States, authorities of the States, metropolitan planning*
15 *organizations, and local governmental authorities, make*
16 *agreements with other departments, agencies, or instrumen-*
17 *talities of the Government, or enter into contracts with pri-*
18 *vate nonprofit or for-profit entities to—*

19 “(1) *develop transportation plans and programs;*

20 “(2) *plan, engineer, design, and evaluate a pub-*
21 *lic transportation project; or*

22 “(3) *conduct technical studies relating to public*
23 *transportation, including—*

1 “(A) studies related to management, plan-
2 ning, operations, capital requirements, and eco-
3 nomic feasibility;

4 “(B) evaluations of previously financed
5 projects;

6 “(C) peer reviews and exchanges of technical
7 data, information, assistance, and related activi-
8 ties in support of planning and environmental
9 analyses among metropolitan planning organiza-
10 tions and other transportation planners; and

11 “(D) other similar and related activities
12 preliminary to, and in preparation for, con-
13 structing, acquiring, or improving the operation
14 of facilities and equipment.

15 “(b) PURPOSE.—To the extent practicable, the Sec-
16 retary shall ensure that amounts appropriated pursuant to
17 section 5338 to carry out this section and sections 5303,
18 5304, and 5306 are used to support balanced and com-
19 prehensive transportation planning that considers the rela-
20 tionships among land use and all transportation modes,
21 without regard to the programmatic source of the planning
22 amounts.

23 “(c) METROPOLITAN PLANNING PROGRAM.—

24 “(1) ALLOCATIONS TO STATES.—

1 “(A) *IN GENERAL.*—*The Secretary shall al-*
2 *locate 80 percent of the amount made available*
3 *under subsection (g)(3)(A) to States to carry out*
4 *sections 5303 and 5306 in a ratio equal to the*
5 *population in urbanized areas in each State, di-*
6 *vided by the total population in urbanized areas*
7 *in all States, as shown by the latest available de-*
8 *cennial census of population.*

9 “(B) *MINIMUM ALLOCATION.*—*Each State*
10 *shall receive not less than 0.5 percent of the total*
11 *amount allocated under this paragraph.*

12 “(2) *AVAILABILITY OF FUNDS.*—*A State receiv-*
13 *ing an allocation under paragraph (1) shall promptly*
14 *distribute such funds to metropolitan planning orga-*
15 *nizations in the State under a formula—*

16 “(A) *developed by the State in cooperation*
17 *with the metropolitan planning organizations;*

18 “(B) *approved by the Secretary of Trans-*
19 *portation;*

20 “(C) *that considers population in urbanized*
21 *areas; and*

22 “(D) *that provides an appropriate distribu-*
23 *tion for urbanized areas to carry out the cooper-*
24 *ative processes described in this section.*

25 “(3) *SUPPLEMENTAL ALLOCATIONS.*—

1 “(A) *IN GENERAL.*—*The Secretary shall al-*
2 *locate 20 percent of the amount made available*
3 *under subsection (g)(3)(A) to States to supple-*
4 *ment allocations made under paragraph (1) for*
5 *metropolitan planning organizations.*

6 “(B) *ALLOCATION FORMULA.*—*Amounts*
7 *under this paragraph shall be allocated under a*
8 *formula that reflects the additional cost of car-*
9 *rying out planning, programming, and project*
10 *selection responsibilities in complex metropolitan*
11 *planning areas under sections 5303, 5304, and*
12 *5306.*

13 “(d) *STATE PLANNING AND RESEARCH PROGRAM.*—

14 “(1) *IN GENERAL.*—*The Secretary shall allocate*
15 *amounts made available pursuant to subsection*
16 *(g)(3)(B) to States for grants and contracts to carry*
17 *out sections 5304, 5306, 5315, and 5322 so that each*
18 *State receives an amount equal to the ratio of the*
19 *population in urbanized areas in that State, divided*
20 *by the total population in urbanized areas in all*
21 *States, as shown by the latest available decennial cen-*
22 *sus.*

23 “(2) *MINIMUM ALLOCATION.*—*Each State shall*
24 *receive not less than 0.5 percent of the amount allo-*
25 *cated under this subsection.*

1 “(3) *REALLOCATION.*—A State may authorize
2 part of the amount made available under this sub-
3 section to be used to supplement amounts available
4 under subsection (c).

5 “(e) *PLANNING CAPACITY BUILDING PROGRAM.*—

6 “(1) *ESTABLISHMENT.*—The Secretary shall es-
7 tablish a Planning Capacity Building Program (re-
8 ferred to in this subsection as the “Program”) to sup-
9 port and fund innovative practices and enhancements
10 in transportation planning.

11 “(2) *PURPOSE.*—The purpose of the Program
12 shall be to promote activities that support and
13 strengthen the planning processes required under this
14 section and sections 5303 and 5304.

15 “(3) *ADMINISTRATION.*—The Program shall be
16 administered by the Federal Transit Administration
17 in cooperation with the Federal Highway Adminis-
18 tration.

19 “(4) *USE OF FUNDS.*—

20 “(A) *IN GENERAL.*—Appropriations author-
21 ized under subsection (g)(1) to carry out this
22 subsection may be used—

23 “(i) to provide incentive grants to
24 States, metropolitan planning organiza-

1 *tions, and public transportation operators;*
2 *and*

3 *“(ii) to conduct research, disseminate*
4 *information, and provide technical assist-*
5 *ance.*

6 *“(B) GRANTS, CONTRACTS, COOPERATIVE*
7 *AGREEMENTS.—In carrying out the activities de-*
8 *scribed in subparagraph (A), the Secretary*
9 *may—*

10 *“(i) expend appropriated funds di-*
11 *rectly; or*

12 *“(ii) award grants to, or enter into*
13 *contracts, cooperative agreements, and other*
14 *transactions with, a Federal agency, State*
15 *agency, local governmental authority, asso-*
16 *ciation, nonprofit or for-profit entity, or in-*
17 *stitution of higher education.*

18 *“(f) GOVERNMENT’S SHARE OF COSTS.—Amounts*
19 *made available to carry out subsections (c), (d), and (e)*
20 *may not exceed 80 percent of the costs of the activity unless*
21 *the Secretary of Transportation determines that it is in the*
22 *interest of the Government not to require State or local*
23 *matching funds.*

1 “(g) *ALLOCATION OF FUNDS.*—Of the amounts made
2 available under section 5338(b)(2)(B) for fiscal year 2005
3 and each fiscal year thereafter to carry out this section—

4 “(1) \$5,000,000 shall be allocated for the Plan-
5 ning Capacity Building Program established under
6 subsection (e);

7 “(2) \$20,000,000 shall be allocated for grants
8 under subsection (a)(2) for alternatives analyses re-
9 quired by section 5309(e)(2)(A); and

10 “(3) of the remaining amount—

11 “(A) 82.72 percent shall be allocated for the
12 metropolitan planning program described in
13 subsection (d); and

14 “(B) 17.28 percent shall be allocated to
15 carry out subsection (b).

16 “(h) *REALLOCATIONS.*—Any amount allocated under
17 this section that has not been used 3 years after the end
18 of the fiscal year in which the amount was allocated shall
19 be reallocated among the States.”.

20 (b) *CONFORMING AMENDMENT.*—The item relating to
21 section 5308 in the table of sections for chapter 53 is amend-
22 ed to read as follows:

“5308. *Planning programs.*”.

23 **SEC. 3011. CAPITAL INVESTMENT PROGRAM.**

24 (a) *SECTION HEADING.*—The section heading of sec-
25 tion 5309 is amended to read as follows:

1 **“§ 5309. Capital investment grants”.**

2 (b) *GENERAL AUTHORITY.*—Section 5309(a) is amend-
3 ed—

4 (1) *in paragraph (1)*—

5 (A) *by striking “(1) The Secretary of*
6 *Transportation may make grants and loans”*
7 *and inserting the following:*

8 “(1) *GRANTS AUTHORIZED.*—*The Secretary may*
9 *award grants”;*

10 (B) *in subparagraph (A), by striking “al-*
11 *ternatives analysis related to the development of*
12 *systems,”;*

13 (C) *by striking subparagraphs (B), (C),*
14 *(D), and (G);*

15 (D) *by redesignating subparagraphs (E),*
16 *(F), and (H) as subparagraphs (B), (C), and*
17 *(D), respectively;*

18 (E) *in subparagraph (C), as redesignated,*
19 *by striking the semicolon at the end and insert-*
20 *ing “, including programs of bus and bus-related*
21 *projects for assistance to subrecipients which are*
22 *public agencies, private companies engaged in*
23 *public transportation, or private nonprofit orga-*
24 *nizations; and”;* and

25 (F) *in subparagraph (D), as redesignated—*

1 (i) by striking “to support fixed guide-
2 way systems”; and

3 (ii) by striking “dedicated bus and
4 high occupancy vehicle”;

5 (2) by amending paragraph (2) to read as fol-
6 lows:

7 “(2) GRANTEE REQUIREMENTS.—

8 “(A) GRANTEE IN URBANIZED AREA.—The
9 Secretary shall require that any grants awarded
10 under this section to a recipient or subrecipient
11 located in an urbanized area shall be subject to
12 all terms, conditions, requirements, and provi-
13 sions that the Secretary determines to be nec-
14 essary or appropriate for the purposes of this
15 section, including requirements for the disposi-
16 tion of net increases in the value of real property
17 resulting from the project assisted under this sec-
18 tion.

19 “(B) GRANTEE NOT IN URBANIZED AREA.—
20 The Secretary shall require that any grants
21 awarded under this section to a recipient or sub-
22 recipient not located in an urbanized area shall
23 be subject to the same terms, conditions, require-
24 ments, and provisions as a recipient or sub-
25 recipient of assistance under section 5311.

1 “(C) *SUBRECIPIENT.*—*The Secretary shall*
2 *require that any private, nonprofit organization*
3 *that is a subrecipient of a grant awarded under*
4 *this section shall be subject to the same terms,*
5 *conditions, requirements, and provisions as a*
6 *subrecipient of assistance under section 5310.*

7 “(D) *STATEWIDE TRANSIT PROVIDER*
8 *GRANTEES.*—*A statewide transit provider that*
9 *receives a grant under this section shall be sub-*
10 *ject to the terms, conditions, requirements, and*
11 *provisions of this section or section 5311, con-*
12 *sistent with the scope and purpose of the grant*
13 *and the location of the project.”; and*

14 *(3) by adding at the end the following:*

15 “(3) *CERTIFICATION.*—*An applicant that has*
16 *submitted the certifications required under subpara-*
17 *graphs (A), (B), (C), and (H) of section 5307(d)(1)*
18 *shall be deemed to have provided sufficient informa-*
19 *tion upon which the Secretary may make the findings*
20 *required under this subsection.”.*

21 “(c) *DEFINED TERM.*—*Section 5309(b) is amended to*
22 *read as follows:*

23 “(b) *DEFINED TERM.*—*As used in this section, the*
24 *term ‘alternatives analysis’ means a study conducted as*

1 *part of the transportation planning process required under*
2 *sections 5303 and 5304, which includes—*

3 “(1) *an assessment of a wide range of public*
4 *transportation alternatives designed to address a*
5 *transportation problem in a corridor or subarea;*

6 “(2) *sufficient information to enable the Sec-*
7 *retary to make the findings of project justification*
8 *and local financial commitment required under this*
9 *section;*

10 “(3) *the selection of a locally preferred alter-*
11 *native; and*

12 “(4) *the adoption of the locally preferred alter-*
13 *native as part of the long-range transportation plan*
14 *required under section 5303.”*

15 (d) *GRANT REQUIREMENTS.—Section 5309(d) is*
16 *amended to read as follows:*

17 “(d) *GRANT REQUIREMENTS.—The Secretary may not*
18 *approve a grant for a project under this section unless the*
19 *Secretary determines that—*

20 “(1) *the project is part of an approved transpor-*
21 *tation plan and program of projects required under*
22 *sections 5303, 5304, and 5306; and*

23 “(2) *the applicant has, or will have—*

1 “(A) *the legal, financial, and technical ca-*
2 *capacity to carry out the project, including safety*
3 *and security aspects of the project;*

4 “(B) *satisfactory continuing control over*
5 *the use of the equipment or facilities; and*

6 “(C) *the capability and willingness to*
7 *maintain the equipment or facilities.”.*

8 *(e) MAJOR CAPITAL INVESTMENT PROJECTS OF*
9 *\$75,000,000 OR MORE.—Section 5309(e) is amended to*
10 *read as follows:*

11 “(e) *MAJOR CAPITAL INVESTMENT PROJECTS OF*
12 *\$75,000,000 OR MORE.—*

13 “(1) *FULL FUNDING GRANT AGREEMENT.—The*
14 *Secretary shall enter into a full funding grant agree-*
15 *ment, based on the evaluations and ratings required*
16 *under this subsection, with each grantee receiving not*
17 *less than \$75,000,000 under this subsection for a new*
18 *fixed guideway capital project that—*

19 “(A) *is authorized for final design and con-*
20 *struction; and*

21 “(B) *has been rated as medium, medium-*
22 *high, or high, in accordance with paragraph*
23 *(5)(B).*

24 “(2) *DETERMINATIONS.—The Secretary may not*
25 *award a grant under this subsection for a new fixed*

1 *guideway capital project unless the Secretary deter-*
2 *mines that the proposed project is—*

3 *“(A) based on the results of an alternatives*
4 *analysis and preliminary engineering;*

5 *“(B) justified based on a comprehensive re-*
6 *view of its mobility improvements, environ-*
7 *mental benefits, cost-effectiveness, operating effi-*
8 *ciencies, economic development effects, and public*
9 *transportation supportive land use patterns and*
10 *policies; and*

11 *“(C) supported by an acceptable degree of*
12 *local financial commitment, including evidence*
13 *of stable and dependable financing sources to*
14 *construct the project, and maintain and operate*
15 *the entire public transportation system, while*
16 *ensuring that the extent and quality of existing*
17 *public transportation services are not degraded.*

18 *“(3) EVALUATION OF PROJECT JUSTIFICATION.—*

19 *In making the determinations under paragraph*
20 *(2)(B) for a major capital investment grant, the Sec-*
21 *retary shall analyze, evaluate, and consider—*

22 *“(A) the results of the alternatives analysis*
23 *and preliminary engineering for the proposed*
24 *project;*

1 “(B) the reliability of the forecasts of costs
2 and utilization made by the recipient and the
3 contractors to the recipient;

4 “(C) the direct and indirect costs of relevant
5 alternatives;

6 “(D) factors such as—

7 “(i) congestion relief;

8 “(ii) improved mobility;

9 “(iii) air pollution;

10 “(iv) noise pollution;

11 “(v) energy consumption; and

12 “(vi) all associated ancillary and miti-
13 gation costs necessary to carry out each al-
14 ternative analyzed;

15 “(E) reductions in local infrastructure costs
16 achieved through compact land use development
17 and positive impacts on the capacity, utiliza-
18 tion, or longevity of other surface transportation
19 assets and facilities;

20 “(F) the cost of suburban sprawl;

21 “(G) the degree to which the project in-
22 creases the mobility of the public transportation
23 dependent population or promotes economic de-
24 velopment;

1 “(H) population density and current tran-
2 sit ridership in the transportation corridor;

3 “(I) the technical capability of the grant re-
4 cipient to construct the project;

5 “(J) any adjustment to the project justifica-
6 tion necessary to reflect differences in local land,
7 construction, and operating costs; and

8 “(K) other factors that the Secretary deter-
9 mines to be appropriate to carry out this chap-
10 ter.

11 “(4) EVALUATION OF LOCAL FINANCIAL COMMIT-
12 MENT.—

13 “(A) IN GENERAL.—In evaluating a project
14 under paragraph (2)(C), the Secretary shall re-
15 quire that—

16 “(i) the proposed project plan provides
17 for the availability of contingency amounts
18 that the Secretary determines to be reason-
19 able to cover unanticipated cost increases;

20 “(ii) each proposed local source of cap-
21 ital and operating financing is stable, reli-
22 able, and available within the proposed
23 project timetable; and

24 “(iii) local resources are available to
25 recapitalize and operate the overall pro-

1 *posed public transportation system, includ-*
2 *ing essential feeder bus and other services*
3 *necessary to achieve the projected ridership*
4 *levels, while ensuring that the extent and*
5 *quality of existing public transportation*
6 *services are not degraded.*

7 *“(B) EVALUATION CRITERIA.—In assessing*
8 *the stability, reliability, and availability of pro-*
9 *posed sources of local financing under paragraph*
10 *(2)(C), the Secretary shall consider—*

11 *“(i) the reliability of the forecasts of*
12 *costs and utilization made by the recipient*
13 *and the contractors to the recipient;*

14 *“(ii) existing grant commitments;*

15 *“(iii) the degree to which financing*
16 *sources are dedicated to the proposed pur-*
17 *poses;*

18 *“(iv) any debt obligation that exists, or*
19 *is proposed by the recipient, for the pro-*
20 *posed project or other public transportation*
21 *purpose; and*

22 *“(v) the extent to which the project has*
23 *a local financial commitment that exceeds*
24 *the required non-Federal share of the cost of*
25 *the project, provided that if the Secretary*

1 *gives priority to financing projects that in-*
2 *clude more than the non-Federal share re-*
3 *quired under subsection (h), the Secretary*
4 *shall give equal consideration to differences*
5 *in the fiscal capacity of State and local gov-*
6 *ernments.*

7 “(5) *PROJECT ADVANCEMENT AND RATINGS.—*

8 *“(A) PROJECT ADVANCEMENT.—A proposed*
9 *project under this subsection shall not advance*
10 *from alternatives analysis to preliminary engi-*
11 *neering or from preliminary engineering to final*
12 *design and construction unless the Secretary de-*
13 *termines that the project meets the requirements*
14 *of this section and there is a reasonable likeli-*
15 *hood that the project will continue to meet such*
16 *requirements.*

17 *“(B) RATINGS.—In making a determina-*
18 *tion under subparagraph (A), the Secretary shall*
19 *evaluate and rate the project on a 5-point scale*
20 *(high, medium-high, medium, medium-low, or*
21 *low) based on the results of the alternatives anal-*
22 *ysis, the project justification criteria, and the de-*
23 *gree of local financial commitment, as required*
24 *under this subsection. In rating the projects, the*
25 *Secretary shall provide, in addition to the over-*

1 *all project rating, individual ratings for each of*
2 *the criteria established by regulation.*

3 “(6) *APPLICABILITY.*—*This subsection shall not*
4 *apply to projects for which the Secretary has issued*
5 *a letter of intent or entered into a full funding grant*
6 *agreement before the date of enactment of the Federal*
7 *Public Transportation Act of 2004.*

8 “(7) *RULEMAKING.*—*Not later than 240 days*
9 *after the date of enactment of the Federal Public*
10 *Transportation Act of 2004, the Secretary shall issue*
11 *regulations on the manner by which the Secretary*
12 *shall evaluate and rate projects based on the results*
13 *of alternatives analysis, project justification, and*
14 *local financial commitment, in accordance with this*
15 *subsection.*

16 “(8) *POLICY GUIDANCE.*—

17 “(A) *PUBLICATION.*—*The Secretary shall*
18 *publish policy guidance regarding the new starts*
19 *project review and evaluation process—*

20 “(i) *not later than 120 days after the*
21 *date of enactment of the Federal Public*
22 *Transportation Act of 2004; and*

23 “(ii) *each time significant changes are*
24 *made by the Secretary to the new starts*
25 *project review and evaluation process and*

1 *criteria, but not less frequently than once*
2 *every 2 years.*

3 “(B) *PUBLIC COMMENT AND RESPONSE.*—

4 *The Secretary shall—*

5 “*(i) invite public comment to the pol-*
6 *icy guidance published under subparagraph*
7 *(A); and*

8 “*(ii) publish a response to the com-*
9 *ments received under clause (i).”.*

10 *(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS*
11 *THAN \$75,000,000.— Section 5309(f) is amended to read*
12 *as follows:*

13 “*(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS*
14 *THAN \$75,000,000.—*

15 “*(1) PROJECT CONSTRUCTION GRANT AGREE-*
16 *MENT.—*

17 “*(A) IN GENERAL.—The Secretary shall*
18 *enter into a project construction grant agree-*
19 *ment, based on evaluations and ratings required*
20 *under this subsection, with each grantee receiv-*
21 *ing less than \$75,000,000 under this subsection*
22 *for a new fixed guideway or corridor improve-*
23 *ment capital project that—*

24 “*(i) is authorized by law; and*

1 “(ii) has been rated as medium, me-
2 dium-high, or high, in accordance with
3 paragraph (3)(B).

4 “(B) CONTENTS.—

5 “(i) IN GENERAL.—An agreement
6 under this paragraph shall specify—

7 “(I) the scope of the project to be
8 constructed;

9 “(II) the estimated net cost of the
10 project;

11 “(III) the schedule under which
12 the project shall be constructed;

13 “(IV) the maximum amount of
14 funding to be obtained under this sub-
15 section;

16 “(V) the proposed schedule for ob-
17 ligation of future Federal grants; and

18 “(VI) the sources of non-Federal
19 funding.

20 “(ii) ADDITIONAL FUNDING.—The
21 agreement may include a commitment on
22 the part of the Secretary to provide funding
23 for the project in future fiscal years.

24 “(C) FULL FUNDING GRANT AGREEMENT.—

25 An agreement under this paragraph shall be con-

1 *sidered a full funding grant agreement for the*
2 *purposes of subsection (g).*

3 “(2) *SELECTION PROCESS.*—

4 “(A) *SELECTION CRITERIA.*—*The Secretary*
5 *may not award a grant under this subsection for*
6 *a proposed project unless the Secretary deter-*
7 *mines that the project is—*

8 “(i) *based on the results of planning*
9 *and alternatives analysis;*

10 “(ii) *justified based on a review of its*
11 *public transportation supportive land use*
12 *policies, cost effectiveness, and effect on local*
13 *economic development; and*

14 “(iii) *supported by an acceptable de-*
15 *gree of local financial commitment.*

16 “(B) *PLANNING AND ALTERNATIVES.*—*In*
17 *evaluating a project under subparagraph (A)(i),*
18 *the Secretary shall analyze and consider the re-*
19 *sults of planning and alternatives analysis for*
20 *the project.*

21 “(C) *PROJECT JUSTIFICATION.*—*In making*
22 *the determinations under subparagraph (A)(ii),*
23 *the Secretary shall—*

24 “(i) *determine the degree to which local*
25 *land use policies are supportive of the pub-*

1 *lic transportation project and the degree to*
2 *which the project is likely to achieve local*
3 *developmental goals;*

4 *“(ii) determine the cost effectiveness of*
5 *the project at the time of the initiation of*
6 *revenue service;*

7 *“(iii) determine the degree to which the*
8 *project will have a positive effect on local*
9 *economic development;*

10 *“(iv) consider the reliability of the*
11 *forecasts of costs and ridership associated*
12 *with the project; and*

13 *“(v) consider other factors that the Sec-*
14 *retary determines to be appropriate to*
15 *carry out this subsection.*

16 *“(D) LOCAL FINANCIAL COMMITMENT.—For*
17 *purposes of subparagraph (A)(iii), the Secretary*
18 *shall require that each proposed local source of*
19 *capital and operating financing is stable, reli-*
20 *able, and available within the proposed project*
21 *timetable.*

22 *“(3) ADVANCEMENT OF PROJECT TO DEVELOP-*
23 *MENT AND CONSTRUCTION.—*

24 *“(A) IN GENERAL.—A proposed project*
25 *under this subsection may not advance from the*

1 *planning and alternatives analysis stage to*
2 *project development and construction unless—*

3 “(i) *the Secretary finds that the project*
4 *meets the requirements of this subsection*
5 *and there is a reasonable likelihood that the*
6 *project will continue to meet such require-*
7 *ments; and*

8 “(ii) *the metropolitan planning orga-*
9 *nization has adopted the locally preferred*
10 *alternative for the project into the long-*
11 *range transportation plan.*

12 “(B) *EVALUATION.—In making the findings*
13 *under subparagraph (A), the Secretary shall*
14 *evaluate and rate the project as high, medium-*
15 *high, medium, medium-low, or low, based on the*
16 *results of the analysis of the project justification*
17 *criteria and the degree of local financial commit-*
18 *ment, as required under this subsection.*

19 “(4) *IMPACT REPORT.—*

20 “(A) *IN GENERAL.—Not later than 240*
21 *days after the date of enactment of the Federal*
22 *Public Transportation Act of 2004, the Federal*
23 *Transit Administration shall submit a report on*
24 *the methodology to be used in evaluating the*
25 *land use and economic development impacts of*

1 *non-fixed guideway or partial fixed guideway*
2 *projects to—*

3 “(i) *the Committee on Banking, Hous-*
4 *ing, and Urban Affairs of the Senate; and*

5 “(ii) *the Committee on Transportation*
6 *and Infrastructure of the House of Rep-*
7 *resentatives.*

8 “(B) *CONTENTS.—The report submitted*
9 *under subparagraph (A) shall address any quali-*
10 *tative and quantitative differences between fixed*
11 *guideway and non-fixed guideway projects with*
12 *respect to land use and economic development*
13 *impacts.*

14 “(5) *REGULATIONS.—Not later than 120 days*
15 *after the date of enactment of the Federal Public*
16 *Transportation Act of 2004, the Secretary shall issue*
17 *regulations establishing an evaluation and rating*
18 *process for proposed projects under this subsection*
19 *that is based on the results of project justification and*
20 *local financial commitment, as required under this*
21 *subsection.”.*

22 “(g) *FULL FUNDING GRANT AGREEMENTS.—Section*
23 *5309(g)(2) is amended by adding at the end the following:*

24 “(C) *BEFORE AND AFTER STUDY.—*

1 “(i) *IN GENERAL.*—*Each full funding grant*
2 *agreement shall require the applicant to conduct a*
3 *study that—*

4 “(I) *describes and analyzes the impacts of*
5 *the new start project on transit services and*
6 *transit ridership;*

7 “(II) *evaluates the consistency of predicted*
8 *and actual project characteristics and perform-*
9 *ance; and*

10 “(III) *identifies sources of differences be-*
11 *tween predicted and actual outcomes.*

12 “(ii) *INFORMATION COLLECTION AND ANALYSIS*
13 *PLAN.*—

14 “(I) *SUBMISSION OF PLAN.*—*Applicants*
15 *seeking a full funding grant agreement shall sub-*
16 *mit a complete plan for the collection and anal-*
17 *ysis of information to identify the impacts of the*
18 *new start project and the accuracy of the fore-*
19 *casts prepared during the development of the*
20 *project. Preparation of this plan shall be in-*
21 *cluded in the full funding grant agreement as an*
22 *eligible activity.*

23 “(II) *CONTENTS OF PLAN.*—*The plan sub-*
24 *mitted under subclause (I) shall provide for—*

1 “(aa) the collection of data on the cur-
2 rent transit system regarding transit service
3 levels and ridership patterns, including ori-
4 gins and destinations, access modes, trip
5 purposes, and rider characteristics;

6 “(bb) documentation of the predicted
7 scope, service levels, capital costs, operating
8 costs, and ridership of the project;

9 “(cc) collection of data on the transit
10 system 2 years after the opening of the new
11 start project, including analogous informa-
12 tion on transit service levels and ridership
13 patterns and information on the as-built
14 scope and capital costs of the new start
15 project; and

16 “(dd) analysis of the consistency of
17 predicted project characteristics with the
18 after data.

19 “(D) COLLECTION OF DATA ON CURRENT SYSTEM.—
20 To be eligible for a full funding grant agreement, recipients
21 shall have collected data on the current system, according
22 to the plan required, before the beginning of construction
23 of the proposed new start project. Collection of this data
24 shall be included in the full funding grant agreement as
25 an eligible activity.

1 “(E) *PUBLIC PRIVATE PARTNERSHIP PILOT PRO-*
2 *GRAM.*—

3 “(i) *AUTHORIZATION.*—*The Secretary may es-*
4 *tablish a pilot program to demonstrate the advantages*
5 *of public-private partnerships for certain fixed guide-*
6 *way systems development projects.*

7 “(ii) *IDENTIFICATION OF QUALIFIED*
8 *PROJECTS.*—*The Secretary shall identify qualified*
9 *public-private partnership projects as permitted by*
10 *applicable State and local enabling laws and work*
11 *with project sponsors to enhance project delivery and*
12 *reduce overall costs.”.*

13 “(h) *FEDERAL SHARE OF NET PROJECT COST.*—*Sec-*
14 *tion 5309(h) is amended to read as follows:*

15 “(h) *FEDERAL SHARE OF ADJUSTED NET PROJECT*
16 *COST.*—

17 “(1) *IN GENERAL.*—*The Secretary shall estimate*
18 *the net project cost based on engineering studies, stud-*
19 *ies of economic feasibility, and information on the ex-*
20 *pected use of equipment or facilities.*

21 “(2) *ADJUSTMENT FOR COMPLETION UNDER*
22 *BUDGET.*—*The Secretary may adjust the final net*
23 *project cost of a major capital investment project*
24 *evaluated under subsections (e) and (f) to include the*
25 *cost of eligible activities not included in the originally*

1 *defined project if the Secretary determines that the*
2 *originally defined project has been completed at a cost*
3 *that is significantly below the original estimate.*

4 “(3) *MAXIMUM FEDERAL SHARE.—*

5 “(A) *IN GENERAL.—A grant for the project*
6 *shall be for 80 percent of the net project cost, or*
7 *the net project cost as adjusted under paragraph*
8 *(2), unless the grant recipient requests a lower*
9 *grant percentage.*

10 “(B) *EXCEPTIONS.—The Secretary may*
11 *provide a higher grant percentage than requested*
12 *by the grant recipient if—*

13 “(i) *the Secretary determines that the*
14 *net project cost of the project is not more*
15 *than 10 percent higher than the net project*
16 *cost estimated at the time the project was*
17 *approved for advancement into preliminary*
18 *engineering; and*

19 “(ii) *the ridership estimated for the*
20 *project is not less than 90 percent of the*
21 *ridership estimated for the project at the*
22 *time the project was approved for advance-*
23 *ment into preliminary engineering.*

24 “(4) *OTHER SOURCES.—The costs not funded by*
25 *a grant under this section may be funded from—*

1 “(A) *an undistributed cash surplus;*

2 “(B) *a replacement or depreciation cash*
3 *fund or reserve; or*

4 “(C) *new capital, including any Federal*
5 *funds that are eligible to be expended for trans-*
6 *portation.*

7 “(5) *PLANNED EXTENSION TO FIXED GUIDEWAY*
8 *SYSTEM.—In addition to amounts allowed under*
9 *paragraph (1), a planned extension to a fixed guide-*
10 *way system may include the cost of rolling stock pre-*
11 *viously purchased if the Secretary determines that*
12 *only non-Federal funds were used and that the pur-*
13 *chase was made for use on the extension. A refund or*
14 *reduction of the costs not funded by a grant under*
15 *this section may be made only if a refund of a pro-*
16 *portional amount of the grant is made at the same*
17 *time.*

18 “(6) *EXCEPTION.—The prohibitions on the use of*
19 *funds for matching requirements under section*
20 *403(a)(5)(C)(vii) of the Social Security Act (42*
21 *U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts*
22 *allowed under paragraph (4).”.*

23 “(i) *LOAN PROVISIONS AND FISCAL CAPACITY CONSID-*
24 *ERATIONS.—Section 5309 is amended—*

25 (1) *by striking subsections (i), (j), (k), and (l);*

1 (2) *by redesignating subsections (m) and (n) as*
2 *subsections (i) and (j), respectively;*

3 (3) *by striking subsection (o) (as added by sec-*
4 *tion 3009(i) of the Federal Transit Act of 1998); and*

5 (4) *by redesignating subsections (o) and (p) as*
6 *subsections (k) and (l), respectively.*

7 (j) *ALLOCATING AMOUNTS.—Section 5309(i), as red-*
8 *ignated, is amended to read as follows:*

9 “(i) *ALLOCATING AMOUNTS.—*

10 “(1) *FISCAL YEAR 2004.—Of the amounts made*
11 *available or appropriated for fiscal year 2004 under*
12 *section 5338(a)(3)—*

13 “(A) *\$1,315,983,615 shall be allocated for*
14 *projects of not less than \$75,000,000 for major*
15 *capital projects for new fixed guideway systems*
16 *and extensions of such systems under subsection*
17 *(e) and projects for new fixed guideway or cor-*
18 *ridor improvement capital projects under sub-*
19 *section (f);*

20 “(B) *\$1,199,387,615 shall be allocated for*
21 *capital projects for fixed guideway moderniza-*
22 *tion; and*

23 “(C) *\$603,617,520 shall be allocated for*
24 *capital projects for buses and bus-related equip-*
25 *ment and facilities.*

1 “(2) *IN GENERAL.*—*Of the amounts made avail-*
2 *able or appropriated for fiscal year 2005 and each*
3 *fiscal year thereafter for grants under this section*
4 *pursuant to subsections (b)(4) and (c) of section*
5 *5338—*

6 “(A) *the amounts appropriated under sec-*
7 *tion 5338(c) shall be allocated for major capital*
8 *projects for—*

9 “(i) *new fixed guideway systems and*
10 *extensions of not less than \$75,000,000, in*
11 *accordance with subsection (e); and*

12 “(ii) *projects for new fixed guideway*
13 *or corridor improvement capital projects, in*
14 *accordance with subsection (f); and*

15 “(B) *the amounts made available under sec-*
16 *tion 5338(b)(4) shall be allocated for capital*
17 *projects for buses and bus-related equipment and*
18 *facilities.*

19 “(3) *FIXED GUIDEWAY MODERNIZATION.*—*The*
20 *amounts made available for fixed guideway mod-*
21 *ernization under section 5338(b)(2)(K) for fiscal year*
22 *2005 and each fiscal year thereafter shall be allocated*
23 *in accordance with section 5337.*

24 “(4) *PRELIMINARY ENGINEERING.*—*Not more*
25 *that 8 percent of the allocation described in para-*

1 *graphs (1)(A) and (2)(A) may be expended on pre-*
2 *liminary engineering.*

3 “(5) *FUNDING FOR FERRY BOATS.*—*Of the*
4 *amounts described in paragraphs (1)(A) and (2)(A),*
5 *\$10,400,000 shall be available in each of the fiscal*
6 *years 2004 through 2009 for capital projects in Alas-*
7 *ka and Hawaii for new fixed guideway systems and*
8 *extension projects utilizing ferry boats, ferry boat ter-*
9 *minals, or approaches to ferry boat terminals.*

10 “(6) *BUS AND BUS FACILITY GRANTS.*—

11 “(A) *CONSIDERATIONS.*—*In making grants*
12 *under paragraphs (1)(C) and (2)(B), the Sec-*
13 *retary shall consider the age and condition of*
14 *buses, bus fleets, related equipment, and bus-re-*
15 *lated facilities.*

16 “(B) *PROJECTS NOT IN URBANIZED*
17 *AREAS.*—*Of the amounts made available under*
18 *paragraphs (1)(C) and (2)(B), not less than 5.5*
19 *percent shall be available in each fiscal year for*
20 *projects that are not in urbanized areas.*

21 “(C) *INTERMODAL TERMINALS.*—*Of the*
22 *amounts made available under paragraphs*
23 *(1)(C) and (2)(B), not less than \$75,000,000*
24 *shall be available in each fiscal year for inter-*

1 *modal terminal projects, including the intercity*
2 *bus portion of such projects.”.*

3 *(k) REPORTS.—Section 5309 is amended by inserting*
4 *at the end the following:*

5 “*(m) REPORTS.—*

6 “*(1) ANNUAL REPORT ON FUNDING REC-*
7 *COMMENDATIONS.—*

8 “*(A) IN GENERAL.—Not later than the first*
9 *Monday of February of each year, the Secretary*
10 *shall submit a report on funding recommenda-*
11 *tions to—*

12 “*(i) the Committee on Transportation*
13 *and Infrastructure of the House of Rep-*
14 *resentatives;*

15 “*(ii) the Committee on Banking, Hous-*
16 *ing, and Urban Affairs of the Senate;*

17 “*(iii) the Subcommittee on Transpor-*
18 *tation of the Committee on Appropriations*
19 *of the House of Representatives; and*

20 “*(iv) the Subcommittee on Transpor-*
21 *tation of the Committee on Appropriations*
22 *of the Senate.*

23 “*(B) CONTENTS.—The report submitted*
24 *under subparagraph (A) shall contain—*

1 “(i) a proposal on the allocation of
2 amounts to finance grants for capital in-
3 vestment projects among grant applicants;

4 “(ii) a recommendation of projects to
5 be funded based on—

6 “(I) the evaluations and ratings
7 determined under subsection (e) and
8 (f); and

9 “(II) existing commitments and
10 anticipated funding levels for the sub-
11 sequent 3 fiscal years; and

12 “(iii) detailed ratings and evaluations
13 on each project recommended for funding.

14 “(2) *TRIENNIAL REPORTS ON PROJECT RAT-*
15 *INGS.*—

16 “(A) *IN GENERAL.*—Not later than the first
17 Monday of February, the first Monday of June,
18 and the first Monday of October of each year, the
19 Secretary shall submit a report on project rat-
20 ings to—

21 “(i) the Committee on Transportation
22 and Infrastructure of the House of Rep-
23 resentatives;

24 “(ii) the Committee on Banking, Hous-
25 ing, and Urban Affairs of the Senate;

1 “(iii) the Subcommittee on Transpor-
2 tation of the Committee on Appropriations
3 of the House of Representatives; and

4 “(iv) the Subcommittee on Transpor-
5 tation of the Committee on Appropriations
6 of the Senate.

7 “(B) CONTENTS.—Each report submitted
8 under subparagraph (A) shall contain—

9 “(i) a summary of the ratings of all
10 capital investment projects for which fund-
11 ing was requested under this section;

12 “(ii) detailed ratings and evaluations
13 on the project of each applicant that had
14 significant changes to the finance or project
15 proposal or has completed alternatives anal-
16 ysis or preliminary engineering since the
17 date of the latest report; and

18 “(iii) all relevant information sup-
19 porting the evaluation and rating of each
20 updated project, including a summary of
21 the financial plan of each updated project.

22 “(3) BEFORE AND AFTER STUDY REPORTS.—Not
23 later than the first Monday of August of each year,
24 the Secretary shall submit a report containing a sum-

1 *mary of the results of the studies conducted under*
2 *subsection (g)(2) to—*

3 *“(A) the Committee on Transportation and*
4 *Infrastructure of the House of Representatives;*

5 *“(B) the Committee on Banking, Housing,*
6 *and Urban Affairs of the Senate;*

7 *“(C) the Subcommittee on Transportation*
8 *of the Committee on Appropriations of the House*
9 *of Representatives; and*

10 *“(D) the Subcommittee on Transportation*
11 *of the Committee on Appropriations of the Sen-*
12 *ate.*

13 *“(4) CONTRACTOR PERFORMANCE ASSESSMENT*
14 *REPORT.—*

15 *“(A) IN GENERAL.—Not later than 180*
16 *days after the enactment of the Federal Public*
17 *Transportation Act of 2004, and each year there-*
18 *after, the Secretary shall submit a report ana-*
19 *lyzing the consistency and accuracy of cost and*
20 *ridership estimates made by each contractor to*
21 *public transportation agencies developing major*
22 *investment projects to the committees and sub-*
23 *committees listed under paragraph (3).*

24 *“(B) CONTENTS.—The report submitted*
25 *under subparagraph (A) shall compare the cost*

1 *and ridership estimates made at the time*
2 *projects are approved for entrance into prelimi-*
3 *nary engineering with—*

4 “(i) *estimates made at the time*
5 *projects are approved for entrance into final*
6 *design;*

7 “(ii) *costs and ridership when the*
8 *project commences revenue operation; and*

9 “(iii) *costs and ridership when the*
10 *project has been in operation for 2 years.*

11 “(5) *ANNUAL GENERAL ACCOUNTING OFFICE RE-*
12 *VIEW.—*

13 “(A) *REVIEW.—The Comptroller General of*
14 *the United States shall conduct an annual re-*
15 *view of the processes and procedures for evalu-*
16 *ating and rating projects and recommending*
17 *projects and the Secretary’s implementation of*
18 *such processes and procedures.*

19 “(B) *REPORT.—Not later than 90 days*
20 *after the submission of each report required*
21 *under paragraph (1), the Comptroller General*
22 *shall submit a report to Congress that summa-*
23 *rizes the results of the review conducted under*
24 *subparagraph (A).*

1 “(6) *CONTRACTOR PERFORMANCE INCENTIVE RE-*
2 *PORT.—Not later than 180 days after the enactment*
3 *of the Federal Public Transportation Act of 2004, the*
4 *Secretary shall submit a report to the committees and*
5 *subcommittees listed under paragraph (3) on the suit-*
6 *ability of allowing contractors to public transpor-*
7 *tation agencies that undertake major capital invest-*
8 *ments under this section to receive performance incen-*
9 *tive awards if a project is completed for less than the*
10 *original estimated cost.”.*

11 **SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND**
12 **PERSONS WITH DISABILITIES.**

13 *(a) IN GENERAL.—Section 5310 is amended to read*
14 *as follows:*

15 **“§ 5310. New freedom for elderly persons and persons**
16 **with disabilities**

17 “(a) *GENERAL AUTHORITY.—*

18 “(1) *AUTHORIZATION.—The Secretary may*
19 *award grants to a State for capital public transpor-*
20 *tation projects that are planned, designed, and car-*
21 *ried out to meet the needs of elderly individuals and*
22 *individuals with disabilities, with priority given to*
23 *the needs of these individuals to access necessary*
24 *health care.*

1 “(2) *ACQUISITION OF PUBLIC TRANSPORTATION*
2 *SERVICES.*—*A capital public transportation project*
3 *under this section may include acquiring public*
4 *transportation services as an eligible capital expense.*

5 “(3) *ADMINISTRATIVE COSTS.*—*A State may use*
6 *not more than 15 percent of the amounts received*
7 *under this section to administer, plan, and provide*
8 *technical assistance for a project funded under this*
9 *section.*

10 “(b) *ALLOTMENTS AMONG STATES.*—

11 “(1) *IN GENERAL.*—*From amounts made avail-*
12 *able or appropriated in each fiscal year under sub-*
13 *sections (a)(1)(C)(iv) and (b)(2)(D) of section 5338*
14 *for grants under this section, the Secretary shall allot*
15 *amounts to each State under a formula based on the*
16 *number of elderly individuals and individuals with*
17 *disabilities in each State.*

18 “(2) *TRANSFER OF FUNDS.*—*Any funds allotted*
19 *to a State under paragraph (1) may be transferred by*
20 *the State to the apportionments made under sections*
21 *5311(c) and 5336 if such funds are only used for eli-*
22 *gible projects selected under this section.*

23 “(3) *REALLOCATION OF FUNDS.*—*A State receiv-*
24 *ing a grant under this section may reallocate such*
25 *grant funds to—*

1 “(A) a private nonprofit organization;

2 “(B) a public transportation agency or au-
3 thority; or

4 “(C) a governmental authority that—

5 “(i) has been approved by the State to
6 coordinate services for elderly individuals
7 and individuals with disabilities;

8 “(ii) certifies that nonprofit organiza-
9 tions are not readily available in the area
10 that can provide the services described
11 under this subsection; or

12 “(iii) will provide services to persons
13 with disabilities that exceed those services
14 required by the Americans with Disabilities
15 Act.

16 “(c) *FEDERAL SHARE.*—

17 “(1) *MAXIMUM.*—

18 “(A) *IN GENERAL.*—A grant for a capital
19 project under this section may not exceed 80 per-
20 cent of the net capital costs of the project, as de-
21 termined by the Secretary.

22 “(B) *EXCEPTION.*—A State described in sec-
23 tion 120(d) of title 23 shall receive an increased
24 Federal share in accordance with the formula
25 under that section.

1 “(2) *REMAINING COSTS.*—*The costs of a capital*
2 *project under this section that are not funded through*
3 *a grant under this section—*

4 “(A) *may be funded from an undistributed*
5 *cash surplus, a replacement or depreciation cash*
6 *fund or reserve, a service agreement with a State*
7 *or local social service agency or a private social*
8 *service organization, or new capital; and*

9 “(B) *may be derived from amounts appro-*
10 *propriated to or made available to any Federal*
11 *agency (other than the Department of Transpor-*
12 *tation, except for Federal Lands Highway funds)*
13 *that are eligible to be expended for transpor-*
14 *tation.*

15 “(3) *EXCEPTION.*—*For purposes of paragraph*
16 *(2), the prohibitions on the use of funds for matching*
17 *requirements under section 403(a)(5)(C)(vii) of the*
18 *Social Security Act (42 U.S.C. 603(a)(5)(C)(vii))*
19 *shall not apply to Federal or State funds to be used*
20 *for transportation purposes.*

21 “(d) *GRANT REQUIREMENTS.*—

22 “(1) *IN GENERAL.*—*A grant recipient under this*
23 *section shall be subject to the requirements of a grant*
24 *recipient under section 5307 to the extent the Sec-*
25 *retary determines to be appropriate.*

1 “(2) *CERTIFICATION REQUIREMENTS.*—

2 “(A) *FUND TRANSFERS.*—*A grant recipient*
3 *under this section that transfers funds to a*
4 *project funded under section 5336 in accordance*
5 *with subsection (b)(2) shall certify that the*
6 *project for which the funds are requested has*
7 *been coordinated with private nonprofit pro-*
8 *viders of services under this section.*

9 “(B) *PROJECT SELECTION AND PLAN DE-*
10 *VELOPMENT.*—*Each grant recipient under this*
11 *section shall certify that—*

12 “(i) *the projects selected were derived*
13 *from a locally developed, coordinated public*
14 *transit-human services transportation plan;*
15 *and*

16 “(ii) *the plan was developed through a*
17 *process that included representatives of pub-*
18 *lic, private, and nonprofit transportation*
19 *and human services providers and partici-*
20 *pation by the public.*

21 “(C) *ALLOCATIONS TO SUBRECIPIENTS.*—
22 *Each grant recipient under this section shall cer-*
23 *tify that allocations of the grant to subrecipients,*
24 *if any, are distributed on a fair and equitable*
25 *basis.*

1 “(e) *STATE PROGRAM OF PROJECTS.*—

2 “(1) *SUBMISSION TO SECRETARY.*—*Each State*
3 *shall annually submit a program of transportation*
4 *projects to the Secretary for approval with an assur-*
5 *ance that the program provides for maximum feasible*
6 *coordination between transportation services funded*
7 *under this section and transportation services assisted*
8 *by other Federal sources.*

9 “(2) *USE OF FUNDS.*—*Each State may use*
10 *amounts made available to carry out this section to*
11 *provide transportation services for elderly individuals*
12 *and individuals with disabilities if such services are*
13 *included in an approved State program of projects.*

14 “(f) *LEASING VEHICLES.*—*Vehicles acquired under*
15 *this section may be leased to local governmental authorities*
16 *to improve transportation services designed to meet the*
17 *needs of elderly individuals and individuals with disabili-*
18 *ties.*

19 “(g) *MEAL DELIVERY FOR HOMEBOUND INDIVID-*
20 *UALS.*—*Public transportation service providers receiving*
21 *assistance under this section or section 5311(c) may coordi-*
22 *nate and assist in regularly providing meal delivery service*
23 *for homebound individuals if the delivery service does not*
24 *conflict with providing public transportation service or re-*
25 *duce service to public transportation passengers.*

1 “(h) *TRANSFERS OF FACILITIES AND EQUIPMENT.*—
 2 *With the consent of the recipient in possession of a facility*
 3 *or equipment acquired with a grant under this section, a*
 4 *State may transfer the facility or equipment to any recipi-*
 5 *ent eligible to receive assistance under this chapter if the*
 6 *facility or equipment will continue to be used as required*
 7 *under this section.*

8 “(i) *FARES NOT REQUIRED.*—*This section does not re-*
 9 *quire that elderly individuals and individuals with disabil-*
 10 *ities be charged a fare.”.*

11 “(b) *CONFORMING AMENDMENT.*—*The item relating to*
 12 *section 5310 in the table of sections for chapter 53 is amend-*
 13 *ed to read as follows:*

“5310. *New freedom for elderly persons and persons with disabilities.”.*

14 **SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBAN-**
 15 **IZED AREAS.**

16 “(a) *DEFINITIONS.*—*Section 5311(a) is amended to*
 17 *read as follows:*

18 “(a) *DEFINITIONS.*—*As used in this section, the fol-*
 19 *lowing definitions shall apply:*

20 “(1) *RECIPIENT.*—*The term ‘recipient’ means a*
 21 *State or Indian tribe that receives a Federal transit*
 22 *program grant directly from the Federal Government.*

23 “(2) *SUBRECIPIENT.*—*The term ‘subrecipient’*
 24 *means a State or local governmental authority, a*
 25 *nonprofit organization, or a private operator of pub-*

1 *lic transportation or intercity bus service that receives*
2 *Federal transit program grant funds indirectly*
3 *through a recipient.”.*

4 *(b) GENERAL AUTHORITY.—Section 5311(b) is amend-*
5 *ed—*

6 *(1) by amending paragraph (1) to read as fol-*
7 *lows:*

8 *“(1) GRANTS AUTHORIZED.—Except as provided*
9 *under paragraph (2), the Secretary may award*
10 *grants under this section to recipients located in*
11 *areas other than urbanized areas for—*

12 *“(A) public transportation capital projects;*

13 *“(B) operating costs of equipment and fa-*
14 *cilities for use in public transportation; and*

15 *“(C) the acquisition of public transpor-*
16 *tation services.”;*

17 *(2) by redesignating paragraph (2) as para-*
18 *graph (3);*

19 *(3) by inserting after paragraph (1) the fol-*
20 *lowing:*

21 *“(2) STATE PROGRAM.—*

22 *“(A) IN GENERAL.—A project eligible for a*
23 *grant under this section shall be included in a*
24 *State program for public transportation service*

1 *projects, including agreements with private pro-*
 2 *viders of public transportation service.*

3 “(B) *SUBMISSION TO SECRETARY.*—*Each*
 4 *State shall annually submit the program de-*
 5 *scribed in subparagraph (A) to the Secretary.*

6 “(C) *APPROVAL.*—*The Secretary may not*
 7 *approve the program unless the Secretary deter-*
 8 *mines that—*

9 “(i) *the program provides a fair dis-*
 10 *tribution of amounts in the State; and*

11 “(ii) *the program provides the max-*
 12 *imum feasible coordination of public trans-*
 13 *portation service assisted under this section*
 14 *with transportation service assisted by other*
 15 *Federal sources.”;*

16 (4) *in paragraph (3), as redesignated—*

17 (A) *by striking “(3) The Secretary of*
 18 *Transportation” and inserting the following:*

19 “(3) *RURAL TRANSPORTATION ASSISTANCE PRO-*
 20 *GRAM.*—

21 “(A) *ESTABLISHMENT.*—*The Secretary”;*

22 (B) *by striking “make” and inserting “use*
 23 *not more than 2 percent of the amount made*
 24 *available to carry out this section to award”;*
 25 *and*

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

2 “(B) DATA COLLECTION.—

3 “*(i) REPORT.—Each grantee under*
4 *this section shall submit an annual report*
5 *to the Secretary containing information on*
6 *capital investment, operations, and service*
7 *provided with funds received under this sec-*
8 *tion, including—*

9 “*(I) total annual revenue;*

10 “*(II) sources of revenue;*

11 “*(III) total annual operating*
12 *costs;*

13 “*(IV) total annual capital costs;*

14 “*(V) fleet size and type, and re-*
15 *lated facilities;*

16 “*(VI) revenue vehicle miles; and*

17 “*(VII) ridership.”; and*

18 (5) by adding after paragraph (3) the following:

19 “(4) Of the amount made available to carry out
20 paragraph (3)—

21 “(A) not more than 15 percent may be used
22 to carry out projects of a national scope; and

23 “(B) any amounts not used under subpara-
24 graph (A) shall be allocated to the States.”.

1 (c) *APPORTIONMENTS.*—Section 5311(c) is amended to
2 *read as follows:*

3 “(c) *APPORTIONMENTS.*—

4 “(1) *PUBLIC TRANSPORTATION ON INDIAN RES-*
5 *ERVATIONS.*—Of the amounts made available or ap-
6 *propriated for each fiscal year pursuant to sub-*
7 *sections (a)(1)(C)(v) and (b)(2)(F) of section 5338,*
8 *the following amounts shall be apportioned for grants*
9 *to Indian tribes for any purpose eligible under this*
10 *section, under such terms and conditions as may be*
11 *established by the Secretary:*

12 “(A) \$6,000,000 for fiscal year 2005.

13 “(B) \$8,000,000 for fiscal year 2006.

14 “(C) \$10,000,000 for fiscal year 2007.

15 “(D) \$12,000,000 for fiscal year 2008.

16 “(E) \$15,000,000 for fiscal year 2009.

17 “(2) *REMAINING AMOUNTS.*—Of the amounts
18 *made available or appropriated for each fiscal year*
19 *pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of*
20 *section 5338 that are not apportioned under para-*
21 *graph (1)—*

22 “(A) 20 percent shall be apportioned to the
23 *States in accordance with paragraph (3); and*

24 “(B) 80 percent shall be apportioned to the
25 *States in accordance with paragraph (4).*

1 “(3) *APPORTIONMENTS BASED ON LAND AREA IN*
2 *NONURBANIZED AREAS.*—

3 “(A) *IN GENERAL.*—*Subject to subpara-*
4 *graph (B), each State shall receive an amount*
5 *that is equal to the amount apportioned under*
6 *paragraph (2)(A) multiplied by the ratio of the*
7 *land area in areas other than urbanized areas in*
8 *that State and divided by the land area in all*
9 *areas other than urbanized areas in the United*
10 *States, as shown by the most recent decennial*
11 *census of population.*

12 “(B) *MAXIMUM APPORTIONMENT.*—*No State*
13 *shall receive more than 5 percent of the amount*
14 *apportioned under this paragraph.*

15 “(4) *APPORTIONMENTS BASED ON POPULATION*
16 *IN NONURBANIZED AREAS.*—*Each State shall receive*
17 *an amount equal to the amount apportioned under*
18 *paragraph (2)(B) multiplied by the ratio of the popu-*
19 *lation of areas other than urbanized areas in that*
20 *State divided by the population of all areas other*
21 *than urbanized areas in the United States, as shown*
22 *by the most recent decennial census of population.”.*

23 “(d) *USE FOR ADMINISTRATIVE, PLANNING, AND TECH-*
24 *NICAL ASSISTANCE.*—*Section 5311(e) is amended—*

1 (1) by striking “AND TECHNICAL ASSISTANCE.—
2 (1) The Secretary of Transportation” and inserting “,
3 PLANNING, AND TECHNICAL ASSISTANCE.—The Sec-
4 retary”;

5 (2) by striking “to a recipient”; and

6 (3) by striking paragraph (2).

7 (e) INTERCITY BUS TRANSPORTATION.—Section
8 5311(f) is amended—

9 (1) in paragraph (1)—

10 (A) by striking “(1)” and inserting the fol-
11 lowing:

12 “(1) IN GENERAL.—”; and

13 (B) by striking “after September 30, 1993,”;
14 and

15 (2) in paragraph (2)—

16 (A) by striking “A State” and inserting
17 “After consultation with affected intercity bus
18 service providers, a State”; and

19 (B) by striking “of Transportation”.

20 (f) FEDERAL SHARE OF COSTS.—Section 5311(g) is
21 amended to read as follows:

22 “(g) FEDERAL SHARE OF COSTS.—

23 “(1) MAXIMUM FEDERAL SHARE.—

24 “(A) CAPITAL PROJECTS.—

1 “(i) *IN GENERAL.*—*Except as provided*
2 *under clause (ii), a grant awarded under*
3 *this section for any purpose other than op-*
4 *erating assistance may not exceed 80 per-*
5 *cent of the net capital costs of the project,*
6 *as determined by the Secretary.*

7 “(ii) *EXCEPTION.*—*A State described*
8 *in section 120(d) of title 23 shall receive a*
9 *Federal share of the net capital costs in ac-*
10 *cordance with the formula under that sec-*
11 *tion.*

12 “(B) *OPERATING ASSISTANCE.*—

13 “(i) *IN GENERAL.*—*Except as provided*
14 *under clause (ii), a grant made under this*
15 *section for operating assistance may not ex-*
16 *ceed 50 percent of the net operating costs of*
17 *the project, as determined by the Secretary.*

18 “(ii) *EXCEPTION.*—*A State described*
19 *in section 120(d) of title 23 shall receive a*
20 *Federal share of the net operating costs*
21 *equal to 62.5 percent of the Federal share*
22 *provided for under subparagraph (A)(ii).*

23 “(2) *OTHER FUNDING SOURCES.*—*Funds for a*
24 *project under this section that are not provided for by*
25 *a grant under this section—*

1 “(A) may be provided from—
2 “(i) an undistributed cash surplus;
3 “(ii) a replacement or depreciation
4 cash fund or reserve;
5 “(iii) a service agreement with a State
6 or local social service agency or a private
7 social service organization; or
8 “(iv) new capital; and
9 “(B) may be derived from amounts appro-
10 priated to or made available to a Federal agency
11 (other than the Department of Transportation,
12 except for Federal Land Highway funds) that
13 are eligible to be expended for transportation.
14 “(3) USE OF FEDERAL GRANT.—A State car-
15 rying out a program of operating assistance under
16 this section may not limit the level or extent of use
17 of the Federal grant for the payment of operating ex-
18 penses.
19 “(4) EXCEPTION.—For purposes of paragraph
20 (2)(B), the prohibitions on the use of funds for match-
21 ing requirements under section 403(a)(5)(c)(vii) of
22 the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii))
23 shall not apply to Federal or State funds to be used
24 for transportation purposes.”.

1 (g) *WAIVER CONDITION.*—Section 5311(j)(1) is
2 amended by striking “but the Secretary of Labor may waive
3 the application of section 5333(b)” and inserting “if the
4 Secretary of Labor utilizes a Special Warranty that pro-
5 vides a fair and equitable arrangement to protect the inter-
6 ests of employees”.

7 **SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
8 **AND DEPLOYMENT PROJECTS.**

9 (a) *IN GENERAL.*—Section 5312 is amended—
10 (1) by amending subsection (a) to read as fol-
11 lows:

12 “(a) *RESEARCH, DEVELOPMENT, AND DEMONSTRA-*
13 *TION PROJECTS.*—

14 “(1) *IN GENERAL.*—The Secretary may make
15 grants, contracts, cooperative agreements, or other
16 transactions (including agreements with departments,
17 agencies, and instrumentalities of the United States
18 Government) for research, development, demonstration
19 or deployment projects, or evaluation of technology of
20 national significance to public transportation that the
21 Secretary determines will improve public transpor-
22 tation service or help public transportation service
23 meet the total transportation needs at a minimum
24 cost.

1 “(2) *INFORMATION.*—*The Secretary may request*
2 *and receive appropriate information from any source.*”

3 “(3) *SAVINGS PROVISION.*—*This subsection does*
4 *not limit the authority of the Secretary under any*
5 *other law.*”;

6 (2) *by striking subsections (b) and (c);*

7 (3) *by redesignating subsections (d) and (e) as*
8 *(b) and (c), respectively.*

9 (4) *in subsection (b), as redesignated—*

10 (A) *in paragraph (2), by striking “other*
11 *agreements” and inserting “other transactions”;*
12 *and*

13 (B) *in paragraph (5), by striking “within*
14 *the Mass Transit Account of the Highway Trust*
15 *Fund”;* and

16 (5) *in subsection (c), as redesignated—*

17 (A) *in paragraph (2), by striking “public*
18 *and private” and inserting “public or private”;*
19 *and*

20 (B) *in paragraph (3), by striking “within*
21 *the Mass Transit Account of the Highway Trust*
22 *Fund” .*

23 (b) *CONFORMING AMENDMENTS.*—

24 (1) *SECTION HEADING.*—*The heading of section*
25 *5312 is amended to read as follows:*

1 **“§ 5312. Research, development, demonstration, and**
 2 **deployment projects”.**

3 (2) *TABLE OF SECTIONS.*—*The item relating to*
 4 *section 5312 in the table of sections for chapter 53 is*
 5 *amended to read as follows:*

“5312. Research, development, demonstration, and deployment projects.”.

6 **SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.**

7 (a) *IN GENERAL.*—*Section 5313 is amended—*

8 (1) *by striking subsection (b);*

9 (2) *in subsection (a)—*

10 (A) *in paragraph (1), by striking “(1) The*
 11 *amounts made available under paragraphs (1)*
 12 *and (2)C)(ii) of section 5338(c) of this title” and*
 13 *inserting “The amounts made available under*
 14 *subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of sec-*
 15 *tion 5338”; and*

16 (B) *in paragraph (2), by striking “(2)” and*
 17 *inserting the following:*

18 *“(b) FEDERAL ASSISTANCE.—”; and*

19 (3) *by amending subsection (c) to read as fol-*
 20 *lows:*

21 *“(c) FEDERAL SHARE.—If there would be a clear and*
 22 *direct financial benefit to an entity under a grant or con-*
 23 *tract financed under this section, the Secretary shall estab-*
 24 *lish a Federal share consistent with such benefit.”.*

25 (b) *CONFORMING AMENDMENTS.—*

1 (1) *SECTION HEADING.*—*The heading of section*
2 *5313 is amended to read as follows:*

3 **“§ 5313. Transit cooperative research program”.**

4 (2) *TABLE OF SECTIONS.*—*The item relating to*
5 *section 5313 in the table of sections for chapter 53 is*
6 *amended to read as follows:*

“5313. Transit cooperative research program.”.

7 **SEC. 3016. NATIONAL RESEARCH PROGRAMS.**

8 (a) *IN GENERAL.*—*Section 5314 is amended—*

9 (1) *in subsection (a)—*

10 (A) *by amending paragraph (1) to read as*
11 *follows:*

12 “(1) *AVAILABILITY OF FUNDS.*—*The Secretary*
13 *may use amounts made available under subsections*
14 *(a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for*
15 *grants, contracts, cooperative agreements, or other*
16 *transactions for the purposes described in sections*
17 *5312, 5315, and 5322.”;*

18 (B) *in paragraph (2), by striking “(2) Of”*
19 *and inserting the following:*

20 “(2) *ADA COMPLIANCE.*—*From”;*

21 (C) *by amending paragraph (3) to read as*
22 *follows:*

23 “(3) *SPECIAL DEMONSTRATION INITIATIVES.*—
24 *The Secretary may use not more than 25 percent of*
25 *the amounts made available under paragraph (1) for*

1 *special demonstration initiatives, subject to terms*
2 *that the Secretary determines to be consistent with*
3 *this chapter. For a nonrenewable grant of not more*
4 *than \$100,000, the Secretary shall provide expedited*
5 *procedures for complying with the requirements of*
6 *this chapter.”;*

7 *(D) in paragraph (4)—*

8 *(i) by striking subparagraph (B); and*

9 *(ii) by redesignating subparagraph (C)*

10 *as subparagraph (B); and*

11 *(E) by adding at the end the following:*

12 *“(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—*
13 *”*

14 *“(A) GRANTS AUTHORIZED.—The Secretary*
15 *may award demonstration grants, from funds*
16 *made available under paragraph (1), to eligible*
17 *entities to provide transportation services to in-*
18 *dividuals to access dialysis treatments and other*
19 *medical treatments for renal disease.*

20 *“(B) ELIGIBLE ENTITIES.—An entity shall*
21 *be eligible to receive a grant under this para-*
22 *graph if the entity—*

23 *“(i) meets the conditions described in*
24 *section 501(c)(3) of the Internal Revenue*
25 *Code of 1986; or*

1 “(ii) is an agency of a State or unit
2 of local government.

3 “(C) USE OF FUNDS.—Grant funds received
4 under this paragraph may be used to provide
5 transportation services to individuals to access
6 dialysis treatments and other medical treatments
7 for renal disease.

8 “(D) APPLICATION.—

9 “(i) IN GENERAL.—Each eligible entity
10 desiring a grant under this paragraph shall
11 submit an application to the Secretary at
12 such time, at such place, and containing
13 such information as the Secretary may rea-
14 sonably require.

15 “(ii) SELECTION OF GRANTEES.—In
16 awarding grants under this paragraph, the
17 Secretary shall give preference to eligible en-
18 tities from communities with—

19 “(I) high incidence of renal dis-
20 ease; and

21 “(II) limited access to dialysis fa-
22 cilities.

23 “(E) RULEMAKING.—The Secretary shall
24 issue regulations to implement and administer

1 *the grant program established under this para-*
2 *graph.*

3 “(F) *REPORT.*—*The Secretary shall submit*
4 *a report on the results of the demonstration*
5 *projects funded under this paragraph to the*
6 *Committee on Banking, Housing, and Urban Af-*
7 *airs of the Senate and the Committee on Trans-*
8 *portation and Infrastructure of the House of*
9 *Representatives.”; and*
10 (2) *by amending subsection (b) to read as fol-*
11 *lows:*

12 “(b) *FEDERAL SHARE.*—*If there would be a clear and*
13 *direct financial benefit to an entity under a grant, contract,*
14 *cooperative agreement, or other transaction financed under*
15 *subsection (a) or section 5312, 5313, 5315, or 5322, the Sec-*
16 *retary shall establish a Federal share consistent with such*
17 *benefit.”.*

18 (c) *NATIONAL TECHNICAL ASSISTANCE CENTER FOR*
19 *SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.*—
20 *Section 5314 is amended by adding at the end the following:*

21 “(c) *NATIONAL TECHNICAL ASSISTANCE CENTER FOR*
22 *SENIOR TRANSPORTATION.*—

23 “(1) *ESTABLISHMENT.*—*The Secretary shall*
24 *award grants to a national not-for-profit organiza-*

1 *tion for the establishment and maintenance of a na-*
2 *tional technical assistance center.*

3 “(2) *ELIGIBILITY.*—*An organization shall be eli-*
4 *gible to receive the grant under paragraph (1) if the*
5 *organization—*

6 “(A) *focuses significantly on serving the*
7 *needs of the elderly;*

8 “(B) *has demonstrated knowledge and ex-*
9 *pertise in senior transportation policy and plan-*
10 *ning issues;*

11 “(C) *has affiliates in a majority of the*
12 *States;*

13 “(D) *has the capacity to convene local*
14 *groups to consult on operation and development*
15 *of senior transportation programs; and*

16 “(E) *has established close working relation-*
17 *ships with the Federal Transit Administration*
18 *and the Administration on Aging.*

19 “(3) *USE OF FUNDS.*—*The national technical as-*
20 *sistance center established under this section shall—*

21 “(A) *gather best practices from throughout*
22 *the country and provide such practices to local*
23 *communities that are implementing senior trans-*
24 *portation programs;*

1 “(B) work with teams from local commu-
2 nities to identify how they are successfully meet-
3 ing the transportation needs of senior and any
4 gaps in services in order to create a plan for an
5 integrated senior transportation program;

6 “(C) provide resources on ways to pay for
7 senior transportation services;

8 “(D) create a web site to publicize and cir-
9 culate information on senior transportation pro-
10 grams;

11 “(E) establish a clearinghouse for print,
12 video, and audio resources on senior mobility;
13 and

14 “(F) administer the demonstration grant
15 program established under paragraph (4).

16 “(4) GRANTS AUTHORIZED.—

17 “(A) IN GENERAL.—The national technical
18 assistance center established under this section,
19 in consultation with the Federal Transit Admin-
20 istration, shall award senior transportation dem-
21 onstration grants to—

22 “(i) local transportation organizations;

23 “(ii) State agencies;

24 “(iii) units of local government; and

25 “(iv) nonprofit organizations.

1 “(B) *USE OF FUNDS.*—*Grant funds received*
2 *under this paragraph may be used to—*

3 “(i) *evaluate the state of transpor-*
4 *tation services for senior citizens;*

5 “(ii) *recognize barriers to mobility that*
6 *senior citizens encounter in their commu-*
7 *nities;*

8 “(iii) *establish partnerships and pro-*
9 *mote coordination among community stake-*
10 *holders, including public, not-for-profit, and*
11 *for-profit providers of transportation serv-*
12 *ices for senior citizens;*

13 “(iv) *identify future transportation*
14 *needs of senior citizens within local commu-*
15 *nities; and*

16 “(v) *establish strategies to meet the*
17 *unique needs of healthy and frail senior*
18 *citizens.*

19 “(C) *SELECTION OF GRANTEES.*—*The Sec-*
20 *retary shall select grantees under this subsection*
21 *based on a fair representation of various geo-*
22 *graphical locations throughout the United States.*

23 “(5) *ALLOCATIONS.*—*From the funds made*
24 *available for each fiscal year under subsections*
25 *(a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338,*

1 \$3,000,000 shall be allocated to carry out this sub-
2 section.

3 “(d) *ALTERNATIVE FUELS STUDY.*—

4 “(1) *STUDY.*—The Secretary shall conduct a
5 study of the actions necessary to facilitate the pur-
6 chase of increased volumes of alternative fuels (as de-
7 fined in section 301 of the *Energy Policy Act of 1992*
8 (42 U.S.C. 13211)) for use in public transit vehicles

9 “(2) *SCOPE OF STUDY.*—The study conducted
10 under this subsection shall focus on the incentives nec-
11 essary to increase the use of alternative fuels in public
12 transit vehicles, including buses, fixed guideway vehi-
13 cles, and ferries.

14 “(3) *CONTENTS.*—The study shall consider—

15 “(A) the environmental benefits of increased
16 use of alternative fuels in transit vehicles;

17 “(B) existing opportunities available to
18 transit system operators that encourage the pur-
19 chase of alternative fuels for transit vehicle oper-
20 ation;

21 “(C) existing barriers to transit system op-
22 erators that discourage the purchase of alter-
23 native fuels for transit vehicle operation, includ-
24 ing situations where alternative fuels that do not
25 require capital improvements to transit vehicles

1 are disadvantaged over fuels that do require such
2 improvements; and

3 “(D) the necessary levels and type of sup-
4 port necessary to encourage additional use of al-
5 ternative fuels for transit vehicle operation.

6 “(4) *RECOMMENDATIONS.*—The study shall rec-
7 ommend regulatory and legislative alternatives that
8 will result in the increased use of alternative fuels in
9 transit vehicles.

10 “(5) *REPORT.*—Not later than 1 year after the
11 date of enactment of the Federal Public Transpor-
12 tation Act of 2004, the Secretary shall submit the
13 study completed under this subsection to the Com-
14 mittee on Banking, Housing, and Urban Affairs of
15 the Senate and the Committee on Transportation and
16 Infrastructure of the House of Representatives”.

17 (c) *CONFORMING AMENDMENTS.*—

18 (1) *SECTION HEADING.*—The heading for section
19 5314 is amended to read as follows:

20 **“§ 5314. National research programs”.**

21 (2) *TABLE OF SECTIONS.*—The item relating to
22 section 5314 in the table of sections for chapter 53 is
23 amended to read as follows:

 “5314. National research programs.”.

24 **SEC. 3017. NATIONAL TRANSIT INSTITUTE.**

25 (a) Section 5315 is amended—

1 (1) *by striking subsections (a) and (b) and in-*
2 *serting the following:*

3 “(a) *ESTABLISHMENT.—The Secretary shall award a*
4 *grant to Rutgers University to conduct a national transit*
5 *institute.*

6 “(b) *DUTIES.—*

7 “(1) *IN GENERAL.—In cooperation with the Fed-*
8 *eral Transit Administration, State transportation de-*
9 *partments, public transportation authorities, and na-*
10 *tional and international entities, the institute estab-*
11 *lished pursuant to subsection (a) shall develop and*
12 *conduct training programs for Federal, State, and*
13 *local transportation employees, United States citizens,*
14 *and foreign nationals engaged or to be engaged in*
15 *Government-aid public transportation work.*

16 “(2) *TRAINING PROGRAMS.—The training pro-*
17 *grams developed under paragraph (1) may include*
18 *courses in recent developments, techniques, and proce-*
19 *dures related to—*

20 “(A) *intermodal and public transportation*
21 *planning;*

22 “(B) *management;*

23 “(C) *environmental factors;*

24 “(D) *acquisition and joint use rights of*
25 *way;*

- 1 “(E) engineering and architectural design;
2 “(F) procurement strategies for public
3 transportation systems;
4 “(G) turnkey approaches to delivering pub-
5 lic transportation systems;
6 “(H) new technologies;
7 “(I) emission reduction technologies;
8 “(J) ways to make public transportation
9 accessible to individuals with disabilities;
10 “(K) construction, construction manage-
11 ment, insurance, and risk management;
12 “(L) maintenance;
13 “(M) contract administration;
14 “(N) inspection;
15 “(O) innovative finance;
16 “(P) workplace safety; and
17 “(Q) public transportation security.”; and
18 (2) in subsection (d), by striking “mass” each
19 place it appears.

20 **SEC. 3018. BUS TESTING FACILITY.**

21 Section 5318 is amended—

22 (1) in subsection (a)—

23 (A) by striking “ESTABLISHMENT.—The
24 Secretary of Transportation shall establish one

1 *facility” and inserting “IN GENERAL.—The Sec-*
2 *retary shall maintain 1 facility”;* and

3 *(B) by striking “established by renovating”*
4 *and inserting “maintained at”;* and

5 *(2) in subsection (d), by striking “section*
6 *5309(m)(1)(C) of this title” and inserting “para-*
7 *graphs (1)(C) and (2)(B) of section 5309(i)”.*

8 **SEC. 3019. BICYCLE FACILITIES.**

9 *Section 5319 is amended by striking “5307(k)” and*
10 *inserting “5307(d)(1)(K)”.*

11 **SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT**
12 **PROJECT.**

13 *Section 5320 is repealed.*

14 **SEC. 3021. CRIME PREVENTION AND SECURITY.**

15 *Section 5321 is repealed.*

16 **SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.**

17 *Section 5323 is amended—*

18 *(1) in subsection (a)—*

19 *(A) by amending paragraph (1) to read as*
20 *follows:*

21 *“(1) IN GENERAL.—Financial assistance pro-*
22 *vided under this chapter to a State or a local govern-*
23 *mental authority may be used to acquire an interest*
24 *in, or to buy property of, a private company engaged*
25 *in public transportation, for a capital project for*

1 *property acquired from a private company engaged*
2 *in public transportation after July 9, 1964, or to op-*
3 *erate a public transportation facility or equipment in*
4 *competition with, or in addition to, transportation*
5 *service provided by an existing public transportation*
6 *company, only if—*

7 *“(A) the Secretary determines that such fi-*
8 *nancial assistance is essential to a program of*
9 *projects required under sections 5303, 5304, and*
10 *5306;*

11 *“(B) the Secretary determines that the pro-*
12 *gram provides for the participation of private*
13 *companies engaged in public transportation to*
14 *the maximum extent feasible; and*

15 *“(C) just compensation under State or local*
16 *law will be paid to the company for its franchise*
17 *or property.”; and*

18 *(B) in paragraph (2), by striking “(2)” and*
19 *inserting the following:*

20 *“(2) LIMITATION.—”;*

21 *(2) by amending subsection (b) to read as fol-*
22 *lows:*

23 *“(b) NOTICE AND PUBLIC HEARING.—*

24 *“(1) IN GENERAL.—An application for a grant*
25 *under this chapter for a capital project that will sub-*

1 *stantially affect a community, or the public transpor-*
2 *tation service of a community, shall include, in the*
3 *environmental record for the project, evidence that the*
4 *applicant has—*

5 *“(A) provided an adequate opportunity for*
6 *public review and comment on the project;*

7 *“(B) held a public hearing on the project if*
8 *the project affects significant economic, social, or*
9 *environmental interests;*

10 *“(C) considered the economic, social, and*
11 *environmental effects of the project; and*

12 *“(D) found that the project is consistent*
13 *with official plans for developing the urban area.*

14 *“(2) CONTENTS OF NOTICE.—Notice of a hearing*
15 *under this subsection—*

16 *“(A) shall include a concise description of*
17 *the proposed project; and*

18 *“(B) shall be published in a newspaper of*
19 *general circulation in the geographic area the*
20 *project will serve.”;*

21 *(3) by amending subsection (c) to read as fol-*
22 *lows:*

23 *“(c) NEW TECHNOLOGY.—A grant for financial assist-*
24 *ance under this chapter for new technology, including inno-*
25 *vative or improved products, techniques, or methods, shall*

1 *be subject to the requirements of section 5309 to the extent*
2 *the Secretary determines to be appropriate.”;*

3 *(4) by amending subsection (d) to read as fol-*
4 *lows:*

5 *“(d) CONDITIONS ON BUS TRANSPORTATION SERV-*
6 *ICE.—Financial assistance under this chapter may be used*
7 *to buy or operate a bus only if the recipient agrees to com-*
8 *ply with the following conditions on bus transportation*
9 *service:*

10 *“(1) CHARTER BUS SERVICE.—*

11 *“(A) IN GENERAL.—Except as provided*
12 *under subparagraph (B), a recipient may pro-*
13 *vide incidental charter bus service only within*
14 *its lawful service area if—*

15 *“(i) the recipient annually publishes,*
16 *by electronic and other appropriate means,*
17 *a notice—*

18 *“(I) indicating its intent to offer*
19 *incidental charter bus service within*
20 *its lawful service area; and*

21 *“(II) soliciting notices from pri-*
22 *ivate bus operators that wish to appear*
23 *on a list of carriers offering charter*
24 *bus service in that service area;*

1 “(ii) the recipient provides private bus
2 operators with an annual opportunity to
3 notify the recipient of its desire to appear
4 on a list of carriers offering charter bus
5 service in such service area;

6 “(iii) upon receiving a request for
7 charter bus service, the recipient electroni-
8 cally notifies the private bus operators listed
9 as offering charter service in that service
10 area with the name and contact informa-
11 tion of the requestor and the nature of the
12 charter service request; and

13 “(iv) the recipient does not offer to
14 provide charter bus service unless no private
15 bus operator indicates that it is willing and
16 able to provide the service within a 72-hour
17 period after the receipt of such notice.

18 “(B) *EXCEPTION.*—A recipient that oper-
19 ates 2,000 or fewer vehicles in fixed-route peak
20 hour service may provide incidental charter bus
21 transportation directly to —

22 “(i) local governments; and

23 “(ii) social service entities with limited
24 resources.

1 “(C) *IRREGULARLY SCHEDULED EVENTS.*—
2 *Service, other than commuter service, by a re-*
3 *recipient to irregularly scheduled events, where the*
4 *service is conducted in whole or in part outside*
5 *the service area of the recipient, regardless of*
6 *whether the service is contracted for individually*
7 *with passengers, is subject to a rebuttable pre-*
8 *sumption that such service is charter service.*

9 “(2) *VIOLATION OF AGREEMENTS.*—

10 “(A) *COMPLAINTS.*—*A complaint regarding*
11 *the violation of a charter bus service agreement*
12 *shall be submitted to the Regional Administrator*
13 *of the Federal Transit Administration, who*
14 *shall—*

15 “(i) *provide a reasonable opportunity*
16 *for the recipient to respond to the com-*
17 *plaint;*

18 “(ii) *provide the recipient with an op-*
19 *portunity for an informal hearing; and*

20 “(iii) *issue a written decision not later*
21 *than 60 days after the parties have com-*
22 *pleted their submissions.*

23 “(B) *APPEALS.*—

24 “(i) *IN GENERAL.*—*A decision by the*
25 *Regional Administrator may be appealed to*

1 a panel comprised of the Federal Transit
2 Administrator, personnel in the Office of the
3 Secretary of Transportation, and other per-
4 sons with expertise in surface passenger
5 transportation issues.

6 “(ii) STANDARD OF REVIEW.—The
7 panel described in clause (i) shall consider
8 the complaint *de novo* on all issues of fact
9 and law.

10 “(iii) WRITTEN DECISION.—The ap-
11 peals panel shall issue a written decision on
12 an appeal not later than 60 days after the
13 completion of submissions. This decision
14 shall be the final order of the agency and
15 subject to judicial review in district court.

16 “(C) CORRECTION.—If the Secretary deter-
17 mines that a violation of an agreement relating
18 to the provision of charter service has occurred,
19 the Secretary shall correct the violation under
20 terms of the agreement.

21 “(D) REMEDIES.—The Secretary may issue
22 orders to recipients to cease and desist in actions
23 that violate the agreement, and such orders shall
24 be binding upon the parties. In addition to any
25 remedy spelled out in the agreement, if a recipi-

1 *ent has failed to correct a violation within 60*
2 *days after the receipt of a notice of violation*
3 *from the Secretary, the Secretary shall withhold*
4 *from the recipient the lesser of—*

5 *“(i) 5 percent of the financial assist-*
6 *ance available to the recipient under this*
7 *chapter for the next fiscal year; or*

8 *“(ii) \$200,000.*

9 *“(3) REGULATIONS.—Not later than 1 year after*
10 *the date of enactment of the Federal Public Transpor-*
11 *tation Act of 2004, the Secretary shall issue amended*
12 *regulations that—*

13 *“(A) implement this subsection, as revised*
14 *by such Act; and*

15 *“(B) impose restrictions, procedures, and*
16 *remedies in connection with sightseeing service*
17 *by a recipient.*

18 *“(4) PUBLIC NOTICE.—The Secretary shall make*
19 *all written decisions, guidance, and other pertinent*
20 *materials relating to the procedures in this subsection*
21 *available to the public in electronic and other appro-*
22 *priate formats in a timely manner.”;*

23 *(5) by striking subsection (e);*

24 *(6) by redesignating subsection (f) as subsection*
25 *(e);*

1 (7) *in subsection (e), as redesignated—*

2 (A) *by striking “(1)” and inserting the fol-*
3 *lowing:*

4 “*(1) IN GENERAL.—*”;

5 (B) *by striking paragraph (2);*

6 (C) *by striking “This subsection” and in-*
7 *serting the following:*

8 “*(2) EXCEPTIONS.—This subsection; and*

9 (D) *by adding at the end the following:*

10 “*(3) PENALTY.—If the Secretary determines that*
11 *an applicant, governmental authority, or publicly*
12 *owned operator has violated the agreement required*
13 *under paragraph (1), the Secretary shall bar the ap-*
14 *plicant, authority, or operator from receiving Federal*
15 *transit assistance in an amount the Secretary deter-*
16 *mines to be appropriate.”;*

17 (8) *by inserting after subsection (e) the following:*

18 “*(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—*

19 “*(1) IN GENERAL.—Notwithstanding any other*
20 *provision of law, a recipient of assistance under sec-*
21 *tion 5307 or 5309, may use the proceeds from the*
22 *issuance of revenue bonds as part of the local match-*
23 *ing funds for a capital project.*

24 “*(2) REIMBURSEMENT BY SECRETARY.—The Sec-*
25 *retary may reimburse an eligible recipient for depos-*

1 *its of bond proceeds in a debt service reserve that the*
2 *recipient established pursuant to section*
3 *5302(a)(1)(K) from amounts made available to the re-*
4 *recipient under section 5307 or 5309.”;*

5 *(9) in subsection (g)—*

6 *(A) by striking “(f)” each place it appears*
7 *and inserting “(e)”;* and

8 *(B) by striking “103(e)(4) and 142 (a) or*
9 *(c)” each place it appears and inserting “133*
10 *and 142”;*

11 *(10) by amending subsection (h) to read as fol-*
12 *lows:*

13 *“(h) TRANSFER OF LANDS OR INTERESTS IN LANDS*
14 *OWNED BY THE UNITED STATES.—*

15 *(1) REQUEST BY SECRETARY.—If the Secretary*
16 *determines that any part of the lands or interests in*
17 *lands owned by the United States and made available*
18 *as a result of a military base closure is necessary for*
19 *transit purposes eligible under this chapter, including*
20 *corridor preservation, the Secretary shall submit a re-*
21 *quest to the head of the Federal agency supervising*
22 *the administration of such lands or interests in lands.*
23 *Such request shall include a map showing the portion*
24 *of such lands or interests in lands, which is desired*
25 *to be transferred for public transportation purposes.*

1 “(2) *TRANSFER OF LAND.*—If 4 months after
2 submitting a request under paragraph (1), the Sec-
3 retary does not receive a response from the Federal
4 agency described in paragraph (1) that certifies that
5 the proposed appropriation of land is contrary to the
6 public interest or inconsistent with the purposes for
7 which such land has been reserved, or if the head of
8 such agency agrees to the utilization or transfer under
9 conditions necessary for the adequate protection and
10 utilization of the reserve, such land or interests in
11 land may be utilized or transferred to a State, local
12 governmental authority, or public transportation op-
13 erator for such purposes and subject to the conditions
14 specified by such agency.

15 “(3) *REVERSION.*—If at any time the lands or
16 interests in land utilized or transferred under para-
17 graph (2) are no longer needed for public transpor-
18 tation purposes, the State, local governmental author-
19 ity, or public transportation operator that received
20 the land shall notify to the Secretary, and such lands
21 shall immediately revert to the control of the head of
22 the Federal agency from which the land was origi-
23 nally transferred.”;

24 (11) in subsection (j)(5), by striking “Intermodal
25 Surface Transportation Efficiency Act of 1991 (Pub-

1 *lic Law 102–240, 105 Stat. 1914)*” and inserting
2 *“Federal Public Transportation Act of 2004”*;

3 *(12) by amending subsection (l) to read as fol-*
4 *lows:*

5 *“(l) RELATIONSHIP TO OTHER LAWS.—Section 1001*
6 *of title 18 applies to a certificate, submission, or statement*
7 *provided under this chapter. The Secretary may terminate*
8 *financial assistance under this chapter and seek reimburse-*
9 *ment directly, or by offsetting amounts, available under this*
10 *chapter, if the Secretary determines that a recipient of such*
11 *financial assistance has made a false or fraudulent state-*
12 *ment or related act in connection with a Federal transit*
13 *program.”;*

14 *(13) in subsection (m), by inserting at the end*
15 *the following: “Requirements to perform preaward*
16 *and postdelivery reviews of rolling stock purchases to*
17 *ensure compliance with subsection (j) shall not apply*
18 *to private nonprofit organizations or to grantees serv-*
19 *ing urbanized areas with a population of fewer than*
20 *1,000,000.”;*

21 *(14) in subsection (o), by striking “the Transpor-*
22 *tation Infrastructure Finance and Innovation Act of*
23 *1998” and inserting “sections 181 through 188 of title*
24 *23”;* and

25 *(15) by adding at the end the following:*

1 “(p) *PROHIBITED USE OF FUNDS.*—Grant funds re-
2 ceived under this chapter may not be used to pay ordinary
3 governmental or nonproject operating expenses.”.

4 **SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

5 (a) *IN GENERAL.*—Section 5324 is amended to read
6 as follows:

7 **“§ 5324. Special provisions for capital projects**

8 “(a) *REAL PROPERTY AND RELOCATION SERVICES.*—
9 Whenever real property is acquired or furnished as a re-
10 quired contribution incident to a project, the Secretary shall
11 not approve the application for financial assistance unless
12 the applicant has made all payments and provided all as-
13 sistance and assurances that are required of a State agency
14 under sections 210 and 305 of the Uniform Relocation As-
15 sistance and Real Property Acquisition Policies Act of 1970
16 (42 U.S.C. 4630 and 4655). The Secretary must be advised
17 of specific references to any State law that are believed to
18 be an exception to section 301 or 302 of such Act (42 U.S.C.
19 4651 and 4652).

20 “(b) *ADVANCE REAL PROPERTY ACQUISITIONS.*—

21 (1) *IN GENERAL.*—The Secretary may partici-
22 pate in the acquisition of real property for any
23 project that may use the property if the Secretary de-
24 termines that external market forces are jeopardizing

1 *the potential use of the property for the project and*
2 *if—*

3 *“(A) there are offers on the open real estate*
4 *market to convey that property for a use that is*
5 *incompatible with the project under study;*

6 *“(B) there is an imminent threat of devel-*
7 *opment or redevelopment of the property for a*
8 *use that is incompatible with the project under*
9 *study;*

10 *“(C) recent appraisals reflect a rapid in-*
11 *crease in the fair market value of the property;*

12 *“(D) the property, because it is located near*
13 *an existing transportation facility, is likely to be*
14 *developed and to be needed for a future transpor-*
15 *tation improvement; or*

16 *“(E) the property owner can demonstrate*
17 *that, for health, safety, or financial reasons, re-*
18 *taining ownership of the property poses an*
19 *undue hardship on the owner in comparison to*
20 *other affected property owners and requests the*
21 *acquisition to alleviate that hardship.*

22 *“(2) ENVIRONMENTAL REVIEWS.—Property ac-*
23 *quired in accordance with this subsection may not be*
24 *developed in anticipation of the project until all re-*

1 *quired environmental reviews for the project have*
2 *been completed.*

3 “(3) *LIMITATION.*—*The Secretary shall limit the*
4 *size and number of properties acquired under this*
5 *subsection as necessary to avoid any prejudice to the*
6 *Secretary’s objective evaluation of project alternatives.*

7 “(4) *EXEMPTION.*—*An acquisition under this*
8 *section shall be considered an exempt project under*
9 *section 176 of the Clean Air Act (42 U.S.C. 7506).*

10 “(c) *RAILROAD CORRIDOR PRESERVATION.*—

11 “(1) *IN GENERAL.*—*The Secretary may assist an*
12 *applicant to acquire railroad right-of-way before the*
13 *completion of the environmental reviews for any*
14 *project that may use the right-of-way if the acquisi-*
15 *tion is otherwise permitted under Federal law. The*
16 *Secretary may establish restrictions on such an acqui-*
17 *sition as the Secretary determines to be necessary and*
18 *appropriate.*

19 “(2) *ENVIRONMENTAL REVIEWS.*—*Railroad*
20 *right-of-way acquired under this subsection may not*
21 *be developed in anticipation of the project until all*
22 *required environmental reviews for the project have*
23 *been completed.*

24 “(d) *CONSIDERATION OF ECONOMIC, SOCIAL, AND EN-*
25 *VIRONMENTAL INTERESTS.*—

1 “(1) *IN GENERAL.*—*The Secretary may not ap-*
2 *prove an application for financial assistance for a*
3 *capital project under this chapter unless the Secretary*
4 *determines that the project has been developed in ac-*
5 *cordance with the National Environmental Policy Act*
6 *of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s find-*
7 *ings under this paragraph shall be made a matter of*
8 *public record.*”

9 “(2) *COOPERATION AND CONSULTATION.*—*In car-*
10 *rying out section 5301(e), the Secretary shall cooper-*
11 *ate and consult with the Secretary of the Interior and*
12 *the Administrator of the Environmental Protection*
13 *Agency on each project that may have a substantial*
14 *impact on the environment.*”

15 (b) *CONFORMING AMENDMENT.*—*The item relating to*
16 *section 5324 in the table of sections for chapter 53 is amend-*
17 *ed to read as follows:*

 “5324. *Special provisions for capital projects.*”

18 **SEC. 3024. CONTRACT REQUIREMENTS.**

19 (a) *IN GENERAL.*—*Section 5325 is amended to read*
20 *as follows:*

21 **“§ 5325. Contract requirements**

22 “(a) *COMPETITION.*—*Recipients of assistance under*
23 *this chapter shall conduct all procurement transactions in*
24 *a manner that provides full and open competition as deter-*
25 *mined by the Secretary.*”

1 “(b) *ARCHITECTURAL, ENGINEERING, AND DESIGN*
2 *CONTRACTS.*—

3 “(1) *IN GENERAL.*—*A contract or requirement*
4 *for program management, architectural engineering,*
5 *construction management, a feasibility study, and*
6 *preliminary engineering, design, architectural, engi-*
7 *neering, surveying, mapping, or related services for a*
8 *project for which Federal assistance is provided under*
9 *this chapter shall be awarded in the same manner as*
10 *a contract for architectural and engineering services*
11 *is negotiated under chapter 11 of title 40, or an*
12 *equivalent qualifications-based requirement of a*
13 *State. This subsection does not apply to the extent a*
14 *State has adopted or adopts by law a formal proce-*
15 *dure for procuring those services.*

16 “(2) *ADDITIONAL REQUIREMENTS.*—*When*
17 *awarding a contract described in paragraph (1), re-*
18 *cipients of assistance under this chapter shall comply*
19 *with the following requirements:*

20 “(A) *Any contract or subcontract awarded*
21 *under this chapter shall be performed and au-*
22 *dated in compliance with cost principles con-*
23 *tained in part 31 of title 48, Code of Federal*
24 *Regulations (commonly known as the Federal*
25 *Acquisition Regulation).*

1 “(B) A recipient of funds under a contract
2 or subcontract awarded under this chapter shall
3 accept indirect cost rates established in accord-
4 ance with the Federal Acquisition Regulation for
5 1-year applicable accounting periods by a cog-
6 nizant Federal or State government agency, if
7 such rates are not currently under dispute.

8 “(C) After a firm’s indirect cost rates are
9 accepted under subparagraph (B), the recipient
10 of the funds shall apply such rates for the pur-
11 poses of contract estimation, negotiation, admin-
12 istration, reporting, and contract payment, and
13 shall not be limited by administrative or de facto
14 ceilings.

15 “(D) A recipient requesting or using the
16 cost and rate data described in subparagraph
17 (C) shall notify any affected firm before such re-
18 quest or use. Such data shall be confidential and
19 shall not be accessible or provided by the group
20 of agencies sharing cost data under this subpara-
21 graph, except by written permission of the au-
22 dited firm. If prohibited by law, such cost and
23 rate data shall not be disclosed under any cir-
24 cumstances.

1 “(c) *EFFICIENT PROCUREMENT.*—A recipient may
2 award a procurement contract under this chapter to other
3 than the lowest bidder if the award furthers an objective
4 consistent with the purposes of this chapter, including im-
5 proved long-term operating efficiency and lower long-term
6 costs.

7 “(d) *DESIGN-BUILD PROJECTS.*—

8 “(1) *DEFINED TERM.*—As used in this sub-
9 section, the term ‘design-build project’—

10 “(A) means a project under which a recipi-
11 ent enters into a contract with a seller, firm, or
12 consortium of firms to design and build an oper-
13 able segment of a public transportation system
14 that meets specific performance criteria; and

15 “(B) may include an option to finance, or
16 operate for a period of time, the system or seg-
17 ment or any combination of designing, building,
18 operating, or maintaining such system or seg-
19 ment.

20 “(2) *FINANCIAL ASSISTANCE FOR CAPITAL*
21 *COSTS.*—Federal financial assistance under this chap-
22 ter may be provided for the capital costs of a design-
23 build project after the recipient complies with Govern-
24 ment requirements.

25 “(e) *ROLLING STOCK.*—

1 “(1) *ACQUISITION.*—A recipient of financial as-
2 sistance under this chapter may enter into a contract
3 to expend that assistance to acquire rolling stock—

4 “(A) with a party selected through a com-
5 petitive procurement process; or

6 “(B) based on—

7 “(i) initial capital costs; or

8 “(ii) performance, standardization, life
9 cycle costs, and other factors.

10 “(2) *MULTIYEAR CONTRACTS.*—A recipient pro-
11 curing rolling stock with Federal financial assistance
12 under this chapter may make a multiyear contract,
13 including options, to buy not more than 5 years of re-
14 quirements for rolling stock and replacement parts.
15 The Secretary shall allow a recipient to act on a co-
16 operative basis to procure rolling stock under this
17 paragraph and in accordance with other Federal pro-
18 curement requirements.

19 “(f) *EXAMINATION OF RECORDS.*—Upon request, the
20 Secretary and the Comptroller General, or any of their rep-
21 resentatives, shall have access to and the right to examine
22 and inspect all records, documents, and papers, including
23 contracts, related to a project for which a grant is made
24 under this chapter.

1 “(g) *GRANT PROHIBITION.*—A grant awarded under
2 this chapter may not be used to support a procurement that
3 uses an exclusionary or discriminatory specification.

4 “(h) *BUS DEALER REQUIREMENTS.*—No State law re-
5 quiring buses to be purchased through in-State dealers shall
6 apply to vehicles purchased with a grant under this chap-
7 ter.

8 “(i) *AWARDS TO RESPONSIBLE CONTRACTORS.*—

9 “(1) *IN GENERAL.*—Federal financial assistance
10 under this chapter may be provided for contracts only
11 if a recipient awards such contracts to responsible
12 contractors possessing the ability to successfully per-
13 form under the terms and conditions of a proposed
14 procurement.

15 “(2) *CRITERIA.*—Before making an award to a
16 contractor under paragraph (1), a recipient shall con-
17 sider—

18 “(A) the integrity of the contractor;

19 “(B) the contractor’s compliance with pub-
20 lic policy;

21 “(C) the contractor’s past performance, in-
22 cluding the performance reported in the Con-
23 tractor Performance Assessment Reports required
24 under section 5309(m)(4); and

1 “(D) the contractor’s financial and tech-
2 nical resources.”.

3 (b) *CONFORMING AMENDMENTS.*—Chapter 53 is
4 amended by striking section 5326.

5 **SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND RE-**
6 **VIEW.**

7 (a) *PROJECT MANAGEMENT PLAN REQUIREMENTS.*—
8 Section 5327(a) is amended—

9 (1) in paragraph (11), by striking “and” at the
10 end;

11 (2) in paragraph (12), by striking the period at
12 the end and inserting “; and”; and

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

14 “(13) safety and security management.”.

15 (b) *LIMITATIONS ON USE OF AVAILABLE AMOUNTS.*—
16 Section 5327(c) is amended—

17 (1) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) *IN GENERAL.*—The Secretary may not use
20 more than 1 percent of amounts made available for
21 a fiscal year to carry out any of sections 5307
22 through 5311, 5316, or 5317, or a project under the
23 National Capital Transportation Act of 1969 (Public
24 Law 91–143) to make a contract to oversee the con-

1 *struction of major projects under any of sections 5307*
2 *through 5311, 5316, or 5317 or under that Act.”;*

3 *(2) in paragraph (2)—*

4 *(A) by striking “(2)” and inserting the fol-*
5 *lowing:*

6 *“(2) OTHER ALLOWABLE USES.—”; and*

7 *(B) by inserting “and security” after “safe-*
8 *ty”; and*

9 *(3) in paragraph (3), by striking “(3) The Gov-*
10 *ernment shall” and inserting the following:*

11 *“(3) FEDERAL SHARE.—Federal funds shall be*
12 *used to”.*

13 **SEC. 3026. PROJECT REVIEW.**

14 *Section 5328 is amended—*

15 *(1) in subsection (a)—*

16 *(A) in paragraph (1) by striking “(1) When*
17 *the Secretary of Transportation allows a new*
18 *fixed guideway project to advance into the alter-*
19 *natives analysis stage of project review, the Sec-*
20 *retary shall cooperate with the applicant” and*
21 *inserting the following:*

22 *“(1) ALTERNATIVES ANALYSIS.—The Secretary*
23 *shall cooperate with an applicant undertaking an al-*
24 *ternatives analysis under subsections (e) and (f) of*
25 *section 5309”;*

1 (B) in paragraph (2)—

2 (i) by striking “(2)” and inserting the
3 following:

4 “(2) *ADVANCEMENT TO PRELIMINARY ENGINEER-*
5 *ING STAGE.—*”; and

6 (ii) by striking “is consistent with”
7 and inserting “meets the requirements of”;

8 (C) in paragraph (3)—

9 (i) by striking “(3)” and inserting the
10 following:

11 “(3) *RECORD OF DECISION.—*”;

12 (ii) by striking “of construction”; and

13 (iii) by adding before the period at the
14 end the following: “if the Secretary deter-
15 mines that the project meets the require-
16 ments of subsection (e) or (f) of section
17 5309”; and

18 (D) by striking paragraph (4); and

19 (2) by striking subsection (c).

20 **SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY**
21 **RISK.**

22 (a) *IN GENERAL.—*Section 5329 is amended to read
23 as follows:

1 **“§ 5329. Investigation of safety hazards and security**
2 **risks**

3 “(a) *IN GENERAL.*—*The Secretary may conduct inves-*
4 *tigations into safety hazards and security risks associated*
5 *with a condition in equipment, a facility, or an operation*
6 *financed under this chapter to establish the nature and ex-*
7 *tent of the condition and how to eliminate, mitigate, or cor-*
8 *rect it.*

9 “(b) *SUBMISSION OF CORRECTIVE PLAN.*—*If the Sec-*
10 *retary establishes that a safety hazard or security risk war-*
11 *rants further protective measures, the Secretary shall re-*
12 *quire the local governmental authority receiving amounts*
13 *under this chapter to submit a plan for eliminating, miti-*
14 *gating, or correcting it.*

15 “(c) *WITHHOLDING OF FUNDS.*—*Financial assistance*
16 *under this chapter, in an amount to be determined by the*
17 *Secretary, may be withheld until a plan is approved and*
18 *carried out.*

19 “(d) *PUBLIC TRANSPORTATION SECURITY.*—

20 “(1) *IN GENERAL.*—*Not later than 90 days after*
21 *the date of enactment of the Federal Public Transpor-*
22 *tation Act of 2004, the Secretary shall enter into a*
23 *memorandum of understanding with the Secretary of*
24 *Homeland Security to define and clarify the respec-*
25 *tive roles and responsibilities of the Department of*

1 *Transportation and the Department of Homeland Se-*
2 *curity relating to public transportation security.*

3 “(2) *CONTENTS.*—*The memorandum of under-*
4 *standing described in paragraph (1) shall—*

5 “(A) *establish national security standards*
6 *for public transportation agencies;*

7 “(B) *establish funding priorities for grants*
8 *from the Department of Homeland Security to*
9 *public transportation agencies;*

10 “(C) *create a method of coordination with*
11 *public transportation agencies on security mat-*
12 *ters; and*

13 “(D) *address any other issues determined to*
14 *be appropriate by the Secretary and the Sec-*
15 *retary of Homeland Security.”.*

16 (b) *CONFORMING AMENDMENT.*—*The item relating to*
17 *section 5329 in the table of sections for chapter 53 is amend-*
18 *ed to read as follows:*

 “5329. *Investigation of safety hazards and security risks.*”.

19 **SEC. 3028. STATE SAFETY OVERSIGHT.**

20 (a) *IN GENERAL.*—*Section 5330 is amended—*

21 (1) *by amending the heading to read as follows:*

22 **“§ 5330. Withholding amounts for noncompliance with**
23 ***State safety oversight requirements*”;**

24 (2) *by amending subsection (a) to read as fol-*
25 *lows:*

1 “(a) *APPLICATION.*—*This section shall only apply to—*

2 “(1) *States that have rail fixed guideway public*
3 *transportation systems that are not subject to regula-*
4 *tion by the Federal Railroad Administration; and*

5 “(2) *States that are designing rail fixed guide-*
6 *way public transportation systems that will not be*
7 *subjected to regulation by the Federal Railroad Ad-*
8 *ministration.*”;

9 (3) *in subsection (d), by striking “affected*
10 *States” and inserting the following: “affected States—*

11 “(1) *shall ensure uniform safety standards and*
12 *enforcement; or*

13 “(2) *may designate*”; and

14 (4) *in subsection (f), by striking “Not later than*
15 *December 18, 1992, the” and inserting “The”.*

16 (b) *CONFORMING AMENDMENT.*—*The item relating to*
17 *section 5330 in the table of sections for chapter 53 is amend-*
18 *ed to read as follows:*

“5330. *Withholding amounts for noncompliance with State safety oversight re-*
quirements.”.

19 **SEC. 3029. SENSITIVE SECURITY INFORMATION.**

20 *Section 40119(b) is amended—*

21 (1) *in paragraph (1)(C), by inserting “, trans-*
22 *portation facilities or infrastructure, or transpor-*
23 *tation employees” before the period at the end; and*

24 (2) *by adding at the end the following:*

1 “(3) A State or local government may not enact, en-
2 force, prescribe, issue, or continue in effect any law, regula-
3 tion, standard, or order to the extent it is inconsistent with
4 this section or regulations prescribed under this section.”.

5 **SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
6 **LENCE AGAINST PUBLIC TRANSPORTATION**
7 **SYSTEMS.**

8 (a) *IN GENERAL.*—Section 1993 of title 18, United
9 States Code, is amended—

10 (1) by striking “mass” each place it appears and
11 inserting “public”;

12 (2) in subsection (a)(5), by inserting “control-
13 ling,” after “operating”; and

14 (3) in subsection (c)(5), by striking “5302(a)(7)
15 of title 49, United States Code,” and inserting
16 “5302(a) of title 49.”.

17 (b) *CONFORMING AMENDMENT.*—The table of contents
18 for chapter 97 of title 18, United States Code is amended
19 by amending the item related to section 1993 to read as
20 follows:

 “1993. Terrorist attacks and other acts of violence against public transportation
 systems.”.

21 **SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MIS-**
22 **USE TESTING.**

23 Section 5331 is amended—

1 (1) in subsection (a)(3), by inserting before the
2 period at the end the following: “or sections 2303a,
3 7101(i), or 7302(e) of title 46. The Secretary may
4 also decide that a form of public transportation is
5 covered adequately, for employee alcohol and con-
6 trolled substances testing purposes, under the alcohol
7 and controlled substance statutes or regulations of an
8 agency within the Department of Transportation or
9 other Federal agency”; and

10 (2) in subsection (f), by striking paragraph (3).

11 **SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

12 Section 5333(b) is amended—

13 (1) in paragraph (3), by striking the period at
14 the end and inserting “: Provided, That—

15 “(A) the protective period shall not exceed 4
16 years; and

17 “(B) the separation allowance shall not exceed
18 12 months.”; and

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

20 “(4) An arrangement under this subsection shall not
21 guarantee continuation of employment as a result of a
22 change in private contractors through competitive bidding
23 unless such continuation is otherwise required under sub-
24 paragraph (A), (B), or (D) of paragraph (2).

1 “(5) *Fair and equitable arrangements to protect the*
2 *interests of employees utilized by the Secretary of Labor for*
3 *assistance to purchase like-kind equipment or facilities, and*
4 *amendments to existing assistance agreements, shall be cer-*
5 *tified without referral.*”

6 “(6) *Nothing in this subsection shall affect the level*
7 *of protection provided to freight railroad employees.*”.

8 **SEC. 3033. ADMINISTRATIVE PROCEDURES.**

9 *Section 5334 is amended—*

10 (1) *in subsection (a)—*

11 (A) *in paragraph (1), by striking “5309–*
12 *5311 of this title” and all that follows and in-*
13 *serting “5309 through 5311;”;*

14 (B) *in paragraph (9), by striking “and” at*
15 *the end;*

16 (C) *in paragraph (10), by striking the pe-*
17 *riod at the end and inserting “; and”; and*

18 (D) *by inserting at the end the following:*

19 “(11) *issue regulations as necessary to carry out*
20 *the purposes of this chapter.*”;

21 (2) *by redesignating subsections (b), (c), (d), (e),*
22 *(f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f),*
23 *(g), (h), (i), (j), and (k), respectively;*

24 (3) *by adding after subsection (a) the following:*

1 “(b) *PROHIBITIONS AGAINST REGULATING OPER-*
2 *ATIONS AND CHARGES.—*—

3 “(1) *IN GENERAL.—Except as directed by the*
4 *President for purposes of national defense or in the*
5 *event of a national or regional emergency, the Sec-*
6 *retary may not regulate—*

7 “(A) *the operation, routes, or schedules of a*
8 *public transportation system for which a grant*
9 *is made under this chapter; or*

10 “(B) *the rates, fares, tolls, rentals, or other*
11 *charges prescribed by any public or private*
12 *transportation provider.*

13 “(2) *COMPLIANCE WITH AGREEMENT.—Nothing*
14 *in this subsection shall prevent the Secretary from re-*
15 *quiring a recipient of funds under this chapter to*
16 *comply with the terms and conditions of its Federal*
17 *assistance agreement.”; and*

18 (4) *in subsection (j)(1), as redesignated, by strik-*
19 *ing “carry out section 5312(a) and (b)(1) of this*
20 *title” and inserting “advise and assist the Secretary*
21 *in carrying out section 5312(a)”.*

22 **SEC. 3034. REPORTS AND AUDITS.**

23 Section 5335 is amended—

24 (1) *by striking subsection (b); and*

25 (2) *in subsection (a)—*

1 (A) in paragraph (1), by striking “(1)”;

2 and

3 (B) in paragraph (2), by striking “(2) The
4 Secretary may make a grant under section 5307
5 of this title” and inserting the following:

6 “(b) *REPORTING AND UNIFORM SYSTEMS.*—The Sec-
7 retary may award a grant under section 5307 or 5311”.

8 **SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR**
9 **FORMULA GRANTS.**

10 Section 5336 is amended—

11 (1) by striking subsection (d);

12 (2) by striking subsection (h);

13 (3) by striking subsection (k);

14 (4) by redesignating subsections (a) through (c)
15 as subsections (b) through (d), respectively;

16 (5) by adding before subsection (b), as redesign-
17 ated, the following:

18 “(a) *APPORTIONMENTS.*—Of the amounts made avail-
19 able for each fiscal year under subsections (a)(1)(C)(vi) and
20 (b)(2)(L) of section 5338—

21 “(1) there shall be apportioned, in fiscal year
22 2005 and each fiscal year thereafter, \$35,000,000 to
23 certain urbanized areas with populations of less than
24 200,000 in accordance with subsection (k); and

1 “(2) any amount not apportioned under para-
2 graph (1) shall be apportioned to urbanized areas in
3 accordance with subsections (b) through (d).”;

4 (6) in subsection (b), as redesignated—

5 (A) by striking “Of the amount made avail-
6 able or appropriated under section 5338(a) of
7 this title” and inserting “Of the amount appor-
8 tioned under subsection (a)(3)”; and

9 (B) in paragraph (2), by striking “sub-
10 sections (b) and (c) of this section” and inserting
11 “subsections (c) and (d)”;

12 (7) in subsection (c)(2), as redesignated, by strik-
13 ing “subsection (a)(2) of this section” and inserting
14 “subsection (b)(2)”;

15 (8) in subsection (d), as redesignated, by striking
16 “subsection (a)(2) of this section” and inserting “sub-
17 section (b)(2)”;

18 (9) in subsection (e)(1), by striking “subsections
19 (a) and (h)(2) of section 5338 of this title” and in-
20 serting “subsections (a) and (b) of section 5338”;

21 (10) in subsection (g), by striking “subsection
22 (a)(1) of this section” each place it appears and in-
23 serting “subsection (b)(1)”; and

24 (11) by adding at the end the following:

1 “(k) *SMALL TRANSIT INTENSIVE CITIES FACTORS.*—

2 *The amount apportioned under subsection (a)(1) shall be*
3 *apportioned to urbanized areas as follows:*

4 “(1) *The Secretary shall calculate a factor equal*
5 *to the sum of revenue vehicle hours operated within*
6 *urbanized areas with a population of between 200,000*
7 *and 1,000,000 divided by the sum of the population*
8 *of all such urbanized areas.*

9 “(2) *The Secretary shall designate as eligible for*
10 *an apportionment under this subsection all urbanized*
11 *areas with a population of under 200,000 for which*
12 *the number of revenue vehicle hours operated within*
13 *the urbanized area divided by the population of the*
14 *urbanized area exceeds the factor calculated under*
15 *paragraph (1).*

16 “(3) *For each urbanized area qualifying for an*
17 *apportionment under paragraph (2), the Secretary*
18 *shall calculate an amount equal to the product of the*
19 *population of that urbanized area and the factor cal-*
20 *culated under paragraph (1).*

21 “(4) *For each urbanized area qualifying for an*
22 *apportionment under paragraph (2), the Secretary*
23 *shall calculate an amount equal to the difference be-*
24 *tween the number of revenue vehicle hours within that*

1 *urbanized area less the amount calculated in para-*
2 *graph (3).*

3 *“(5) Each urbanized area qualifying for an ap-*
4 *portionment under paragraph (2) shall receive an*
5 *amount equal to the amount to be apportioned under*
6 *this subsection multiplied by the amount calculated*
7 *for that urbanized area under paragraph (4) divided*
8 *by the sum of the amounts calculated under para-*
9 *graph (4) for all urbanized areas qualifying for an*
10 *apportionment under paragraph (2).*

11 *“(l) STUDY ON INCENTIVES IN FORMULA PRO-*
12 *GRAMS.—*

13 *“(1) STUDY.—The Secretary shall conduct a*
14 *study to assess the feasibility and appropriateness of*
15 *developing and implementing an incentive funding*
16 *system under sections 5307 and 5311 for operators of*
17 *public transportation.*

18 *“(2) REPORT.—*

19 *“(A) IN GENERAL.—Not later than 1 year*
20 *after the date of enactment of the Federal Public*
21 *Transportation Act of 2004, the Secretary shall*
22 *submit a report on the results of the study con-*
23 *ducted under paragraph (1) to the Committee on*
24 *Banking, Housing, and Urban Affairs of the*
25 *Senate and the Committee on Transportation*

1 *and Infrastructure of the House of Representa-*
2 *tives.*

3 “(B) *CONTENTS.*—*The report submitted*
4 *under subparagraph (A) shall include—*

5 “(i) *an analysis of the availability of*
6 *appropriate measures to be used as a basis*
7 *for the distribution of incentive payments;*

8 “(ii) *the optimal number and size of*
9 *any incentive programs;*

10 “(iii) *what types of systems should*
11 *compete for various incentives;*

12 “(iv) *how incentives should be distrib-*
13 *uted; and*

14 “(v) *the likely effects of the incentive*
15 *funding system.”.*

16 **SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MOD-**
17 **ERNIZATION.**

18 *Section 5337 is amended—*

19 (1) *in subsection (a), by striking “for each of fis-*
20 *cal years 1998 through 2003”; and*

21 (2) *by striking “section 5336(b)(2)(A)” each*
22 *place it appears and inserting “section*
23 *5336(c)(2)(A)”.*

24 **SEC. 3037. AUTHORIZATIONS.**

25 *Section 5338 is amended to read as follows:*

1 **“§ 5338. Authorizations**

2 “(a) *FISCAL YEAR 2004.*—

3 “(1) *FORMULA GRANTS.*—

4 “(A) *TRUST FUND.*—*For fiscal year 2004,*
5 *\$3,053,079,920 shall be available from the Mass*
6 *Transit Account of the Highway Trust Fund to*
7 *carry out sections 5307, 5309, 5310, and 5311 of*
8 *this chapter and section 3038 of the Transpor-*
9 *tation Equity Act for the 21st Century (49*
10 *U.S.C. 5310 note).*

11 “(B) *GENERAL FUND.*—*In addition to the*
12 *amounts made available under subparagraph*
13 *(A), there are authorized to be appropriated*
14 *\$763,269,980 for fiscal year 2004 to carry out*
15 *sections 5307, 5309, 5310, and 5311 of this chap-*
16 *ter and section 3038 of the Transportation Eq-*
17 *uity Act for the 21st Century (49 U.S.C. 5310*
18 *note).*

19 “(C) *ALLOCATION OF FUNDS.*—*Of the*
20 *amounts made available or appropriated under*
21 *this paragraph—*

22 “(i) *\$4,821,335 shall be available to the*
23 *Alaska Railroad for improvements to its*
24 *passenger operations under section 5307;*

25 “(ii) *\$6,908,995 shall be available to*
26 *provide over-the-road bus accessibility*

1 *grants under section 3038 of the Transpor-*
2 *tation Equity Act for the 21st Century (49*
3 *U.S.C. 5310 note);*

4 *“(iii) \$90,117,950 shall be available to*
5 *provide transportation services to elderly*
6 *individuals and individuals with disabil-*
7 *ities under section 5310;*

8 *“(iv) \$239,188,058 shall be available to*
9 *provide financial assistance for other than*
10 *urbanized areas under section 5311;*

11 *“(v) \$3,425,608,562 shall be available*
12 *to provide financial assistance for urban-*
13 *ized areas under section 5307; and*

14 *“(vi) \$49,705,000 shall be available to*
15 *provide financial assistance for buses and*
16 *bus facilities under section 5309..*

17 *“(2) JOB ACCESS AND REVERSE COMMUTE.—*

18 *“(A) TRUST FUND.—For fiscal year 2004,*
19 *\$99,410,000 shall be available from the Mass*
20 *Transit Account of the Highway Trust Fund to*
21 *carry out section 3037 of the Transportation Eq-*
22 *uity Act for the 21st Century (49 U.S.C. 5309*
23 *note).*

24 *“(B) GENERAL FUND.—In addition to the*
25 *amounts made available under paragraph (A),*

1 *there are authorized to be appropriated*
2 *\$24,852,500 for fiscal year 2004 to carry out sec-*
3 *tion 3037 of the Transportation Equity Act of*
4 *the 21st Century (49 U.S.C. 5309 note).*

5 “(3) *CAPITAL PROGRAM GRANTS.—*

6 “(A) *TRUST FUND.—For fiscal year 2004,*
7 *\$2,495,191,000 shall be available from the Mass*
8 *Transit Account of the Highway Trust Fund to*
9 *carry out section 5309.*

10 “(B) *GENERAL FUND.—In addition to the*
11 *amounts made available under subparagraph*
12 *(A), there are authorized to be appropriated*
13 *\$623,797,750 for fiscal year 2004 to carry out*
14 *section 5309.*

15 “(4) *PLANNING.—*

16 “(A) *TRUST FUND.—For fiscal year 2004,*
17 *\$58,254,260 shall be available from the Mass*
18 *Transit Account of the Highway Trust Fund to*
19 *carry out section 5308.*

20 “(B) *GENERAL FUND.—In addition to the*
21 *amounts made available under subparagraph*
22 *(A), there are authorized to be appropriated*
23 *\$14,315,040 for fiscal year 2004 to carry out sec-*
24 *tion 5308.*

1 “(C) *ALLOCATION OF FUNDS.*—Of the
2 *amounts made available or appropriated under*
3 *this paragraph—*

4 “(i) *82.72 percent shall be allocated for*
5 *metropolitan planning under section*
6 *5308(c); and*

7 “(ii) *17.28 percent shall be allocated*
8 *for State planning under section 5308(d).*

9 “(5) *RESEARCH.*—

10 “(A) *TRUST FUND.*—For fiscal year 2004,
11 *\$41,951,020 shall be available from the Mass*
12 *Transit Account of the Highway Trust Fund to*
13 *carry out sections 5311(b), 5312, 5313, 5314,*
14 *5315, and 5322.*

15 “(B) *GENERAL FUND.*—In addition to the
16 *amounts made available under subparagraph*
17 *(A), there are authorized to be appropriated*
18 *\$10,736,280 for fiscal year 2004 to carry out sec-*
19 *tions 5311(b), 5312, 5313, 5314, 5315, and 5322.*

20 “(C) *ALLOCATION OF FUNDS.*—Of the funds
21 *made available or appropriated under this para-*
22 *graph—*

23 “(i) *not less than \$3,976,400 shall be*
24 *available to carry out programs of the Na-*
25 *tional Transit Institute under section 5315;*

1 “(ii) not less than \$5,219,025 shall be
2 available to carry out section 5311(b)(2);

3 “(iii) not less than \$8,201,325 shall be
4 available to carry out section 5313; and

5 “(iv) the remainder shall be available
6 to carry out national research and tech-
7 nology programs under sections 5312, 5314,
8 and 5322.

9 “(6) UNIVERSITY TRANSPORTATION RE-
10 SEARCH.—

11 “(A) TRUST FUND.—For fiscal year 2004,
12 \$4,771,680 shall be available from the Mass
13 Transit Account of the Highway Trust Fund to
14 carry out sections 5505 and 5506.

15 “(B) GENERAL FUND.—In addition to
16 amounts made available under subparagraph
17 (A), there are authorized to be appropriated
18 \$1,192,920 for fiscal year 2004 to carry out sec-
19 tions 5505 and 5506.

20 “(C) ALLOCATION OF FUNDS.—Of the
21 amounts made available or appropriated under
22 this paragraph—

23 “(i) \$1,988,200 shall be available for
24 grants under 5506(f)(5) to the institution
25 identified in section 5505(j)(3)(E), as in ef-

1 *fect on the day before the date of enactment*
2 *of the Federal Public Transportation Act of*
3 *2004;*

4 “(ii) \$1,988,200 shall be available for
5 grants under section 5505(d) to the institu-
6 tion identified in section 5505(j)(4)(A), as
7 in effect on the date specified in clause (i);
8 and

9 “(iii) \$1,988,200 shall be available for
10 grants under section 5505(d) to the institu-
11 tion identified in section 5505(j)(4)(F), as
12 in effect on the date specified in subclause
13 (I).

14 “(C) *SPECIAL RULE.*—Nothing in this
15 paragraph shall be construed to limit the trans-
16 portation research conducted by the centers re-
17 ceiving financial assistance under this section.

18 “(7) *ADMINISTRATION.*—

19 “(A) *TRUST FUND.*—For fiscal year 2004,
20 \$60,043,640 shall be available from the Mass
21 Transit Account of the Highway Trust Fund to
22 carry out section 5334.

23 “(B) *GENERAL FUND.*—In addition to amounts
24 made available under subparagraph (A), there are

1 *authorized to be appropriated \$15,010,910 for fiscal*
2 *year 2004 to carry out section 5334.*

3 *“(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—*

4 *“(A) GRANTS FINANCED FROM HIGHWAY TRUST*
5 *FUND.—A grant or contract that is approved by the*
6 *Secretary and financed with amounts made available*
7 *under paragraph (1)(A), (2)(A), (3)(A), (4)(A),*
8 *(5)(A), (6)(A), or (7)(A) is a contractual obligation of*
9 *the United States Government to pay the Federal*
10 *share of the cost of the project.*

11 *“(B) GRANTS FINANCED FROM GENERAL*
12 *FUND.—A grant or contract that is approved by*
13 *the Secretary and financed with amounts appro-*
14 *priated in advance under paragraph (1)(B),*
15 *(2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B)*
16 *is a contractual obligation of the United States*
17 *Government to pay the Federal share of the cost*
18 *of the project only to the extent that amounts are*
19 *appropriated for such purpose by an Act of Con-*
20 *gress.*

21 *“(9) AVAILABILITY OF AMOUNTS.—Amounts*
22 *made available or appropriated under paragraphs (1)*
23 *through (6) shall remain available until expended.”.*

24 *“(b) FORMULA GRANTS AND RESEARCH.—*

1 “(1) *IN GENERAL.*—*There shall be available from*
2 *the Mass Transit Account of the Highway Trust Fund*
3 *to carry out sections 5307, 5308, 5309, 5310 through*
4 *5316, 5322, 5335, 5340, and 5505 of this title, and*
5 *sections 3037 and 3038 of the Federal Transit Act of*
6 *1998 (112 Stat. 387 et seq.)—*

7 “(A) \$6,262,600,000 for fiscal year 2005;

8 “(B) \$6,577,629,000 for fiscal year 2006;

9 “(C) \$6,950,400,000 for fiscal year 2007;

10 “(D) \$7,594,760,000 for fiscal year 2008;

11 *and*

12 “(E) \$8,275,320,000 for fiscal year 2009.

13 “(2) *ALLOCATION OF FUNDS.*—*Of the amounts*
14 *made available under paragraph (1) for each fiscal*
15 *year—*

16 “(A) 0.092 percent shall be available for
17 *grants to the Alaska Railroad under section 5307*
18 *for improvements to its passenger operations;*

19 “(B) 1.75 percent shall be available to carry
20 *out section 5308;*

21 “(C) 2.05 percent shall be available to pro-
22 *vide financial assistance for job access and re-*
23 *verse commute projects under section 3037 of the*
24 *Federal Transit Act of 1998 (49 U.S.C. 5309*
25 *note);*

1 “(D) 3.00 percent shall be available to pro-
2 vide financial assistance for services for elderly
3 persons and persons with disabilities under sec-
4 tion 5310;

5 “(E) 0.125 percent shall be available to
6 carry out section 3038 of the Transportation Eq-
7 uity Act for the 21st Century (49 U.S.C. 5310
8 note);

9 “(F) 6.25 percent shall be available to pro-
10 vide financial assistance for other than urban-
11 ized areas under section 5311;

12 “(G) 0.89 percent shall be available to carry
13 out transit cooperative research programs under
14 section 5313, the National Transit Institute
15 under section 5315, university research centers
16 under section 5505, and national research pro-
17 grams under sections 5312, 5313, 5314, and
18 5322, of which—

19 “(i) 17.0 percent shall be allocated to
20 carry out transit cooperative research pro-
21 grams under section 5313;

22 “(ii) 7.5 percent shall be allocated to
23 carry out programs under the National
24 Transit Institute under section 5315, in-

1 *cluding not more than \$1,000,000 to carry*
2 *out section 5315(a)(16);*

3 *“(iii) 11.0 percent shall be allocated to*
4 *carry out the university centers program*
5 *under section 5505; and*

6 *“(iv) any funds made available under*
7 *this subparagraph that are not allocated*
8 *under clauses (i) through (iii) shall be allo-*
9 *cated to carry out national research pro-*
10 *grams under sections 5312, 5313, 5314, and*
11 *5322;*

12 *“(H) \$25,000,000 shall be available for each*
13 *of the fiscal years 2005 through 2009 to carry*
14 *out section 5316;*

15 *“(I) there shall be available to carry out*
16 *section 5335—*

17 *“(i) \$3,700,000 in fiscal year 2005;*

18 *“(ii) \$3,900,000 in fiscal year 2006;*

19 *“(iii) \$4,200,000 in fiscal year 2007;*

20 *“(iv) \$4,600,000 in fiscal year 2008;*

21 *and*

22 *“(v) \$5,000,000 in fiscal year 2009;*

23 *“(J) 6.25 percent shall be allocated in ac-*
24 *cordance with section 5340 to provide financial*
25 *assistance for urbanized areas under section*

1 5307 and other than urbanized areas under sec-
2 tion 5311; and

3 “(K) 22.0 percent shall be allocated in ac-
4 cordance with section 5337 to provide financial
5 assistance under section 5309(i)(3); and

6 “(L) any amounts not made available
7 under subparagraphs (A) through (K) shall be
8 allocated in accordance with section 5336 to pro-
9 vide financial assistance for urbanized areas
10 under section 5307.

11 “(3) UNIVERSITY CENTERS PROGRAM.—

12 “(A) ALLOCATION.—Of the amounts allo-
13 cated under paragraph (2)(G)(iii), \$1,000,000
14 shall be available in each of the fiscal years 2005
15 through 2009 for Morgan State University to
16 provide transportation research, training, and
17 curriculum development.

18 “(B) REQUIREMENTS.—The university spec-
19 ified under subparagraph (A) shall be considered
20 a University Transportation Center under sec-
21 tion 510 of title 23, and shall be subject to the
22 requirements under subsections (c), (d), (e), and
23 (f) of such section.

24 “(C) REPORT.—In addition to the report
25 required under section 510(e)(3) of title 23, the

1 *university specified under subparagraph (A)*
 2 *shall annually submit a report to the Secretary*
 3 *that describes the university’s contribution to*
 4 *public transportation.*

5 “(4) *BUS GRANTS.*—*In addition to the amounts*
 6 *made available under paragraph (1), there shall be*
 7 *available from the Mass Transit Account of the High-*
 8 *way Trust Fund to carry out section 5309(i)(2)(B)—*

9 “(A) *\$839,829,000 for fiscal year 2005;*

10 “(B) *\$882,075,000 for fiscal year 2006;*

11 “(C) *\$932,064,000 for fiscal year 2007;*

12 “(D) *\$1,018,474,000 for fiscal year 2008;*

13 *and*

14 “(E) *\$1,109,739,000 for fiscal year 2009.*

15 “(c) *MAJOR CAPITAL INVESTMENT GRANTS.*—*There*
 16 *are authorized to be appropriated to carry out section*
 17 *5309(i)(2)(A)—*

18 “(1) *\$1,461,072,000 for fiscal year 2005;*

19 “(2) *\$1,534,568,000 for fiscal year 2006;*

20 “(3) *\$1,621,536,000 for fiscal year 2007;*

21 “(4) *\$1,771,866,000 for fiscal year 2008; and*

22 “(5) *\$1,930,641,000 for fiscal year 2009.*

23 “(d) *ADMINISTRATION.*—*There shall be available from*
 24 *the Mass Transit Account of the Highway Trust Fund to*
 25 *carry out section 5334—*

- 1 “(1) \$86,500,000 for fiscal year 2005;
2 “(2) \$90,851,000 for fiscal year 2006;
3 “(3) \$96,000,000 for fiscal year 2007;
4 “(4) \$104,900,000 for fiscal year 2008; and
5 “(5) \$114,300,000 for fiscal year 2009.

6 “(e) *GRANTS AS CONTRACTUAL OBLIGATIONS.*—

7 “(1) *MASS TRANSIT ACCOUNT FUNDS.*—A grant
8 or contract approved by the Secretary that is fi-
9 nanced with amounts made available under sub-
10 section (b)(1) or (d) is a contractual obligation of the
11 United States Government to pay the Federal share
12 of the cost of the project.

13 “(2) *APPROPRIATED FUNDS.*—A grant or con-
14 tract approved by the Secretary that is financed with
15 amounts made available under subsection (b)(2) or (c)
16 is a contractual obligation of the United States Gov-
17 ernment to pay the Federal share of the cost of the
18 project only to the extent that amounts are appro-
19 priated in advance for such purpose by an Act of
20 Congress.

21 “(f) *AVAILABILITY OF AMOUNTS.*—Amounts made
22 available by or appropriated under subsections (b) and (c)
23 shall remain available until expended.”.

1 **SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES**

2 **FORMULA FACTORS.**

3 (a) *IN GENERAL.*—Chapter 53 is amended by adding
4 at the end the following:

5 **“§ 5340. Apportionments based on growing States and**
6 **high density State formula factors**

7 “(a) *ALLOCATION.*—Of the amounts made available for
8 each fiscal year under section 5338(b)(2)(J), the Secretary
9 shall apportion—

10 “(1) 50 percent to States and urbanized areas in
11 accordance with subsection (b); and

12 “(2) 50 percent to States and urbanized areas in
13 accordance with subsection (c).

14 “(b) *GROWING STATE APPORTIONMENTS.*—

15 “(1) *APPORTIONMENT AMONG STATES.*—The
16 amounts apportioned under paragraph (a)(1) shall
17 provide each State with an amount equal to the total
18 amount apportioned multiplied by a ratio equal to
19 the population of that State forecast for the year that
20 is 15 years after the most recent decennial census, di-
21 vided by the total population of all States forecast for
22 the year that is 15 years after the most recent decen-
23 nial census. Such forecast shall be based on the popu-
24 lation trend for each State between the most recent
25 decennial census and the most recent estimate of pop-
26 ulation made by the Secretary of Commerce.

1 “(2) *APPORTIONMENTS BETWEEN URBANIZED*
2 *AREAS AND OTHER THAN URBANIZED AREAS IN EACH*
3 *STATE.—*

4 “(A) *IN GENERAL.—The Secretary shall ap-*
5 *portion amounts to each State under paragraph*
6 *(1) so that urbanized areas in that State receive*
7 *an amount equal to the amount apportioned to*
8 *that State multiplied by a ratio equal to the sum*
9 *of the forecast population of all urbanized areas*
10 *in that State divided by the total forecast popu-*
11 *lation of that State. In making the apportion-*
12 *ment under this subparagraph, the Secretary*
13 *shall utilize any available forecasts made by the*
14 *State. If no forecasts are available, the Secretary*
15 *shall utilize data on urbanized areas and total*
16 *population from the most recent decennial cen-*
17 *sus.*

18 “(B) *REMAINING AMOUNTS.—Amounts re-*
19 *maining for each State after apportionment*
20 *under subparagraph (A) shall be apportioned to*
21 *that State and added to the amount made avail-*
22 *able for grants under section 5311.*

23 “(3) *APPORTIONMENTS AMONG URBANIZED*
24 *AREAS IN EACH STATE.—The Secretary shall appor-*
25 *tion amounts made available to urbanized areas in*

1 *each State under subsection (b)(2)(A) so that each ur-*
2 *banized area receives an amount equal to the amount*
3 *apportioned under subsection (b)(2)(A) multiplied by*
4 *a ratio equal to the population of each urbanized area*
5 *divided by the sum of populations of all urbanized*
6 *areas in the State. Amounts apportioned to each ur-*
7 *banized area shall be added to amounts apportioned*
8 *to that urbanized area under section 5336, and made*
9 *available for grants under section 5307.*

10 *“(c) HIGH DENSITY STATE APPORTIONMENTS.—*
11 *Amounts to be apportioned under subsection (a)(2) shall be*
12 *apportioned as follows:*

13 *“(1) ELIGIBLE STATES.—The Secretary shall*
14 *designate as eligible for an apportionment under this*
15 *subsection all States with a population density in ex-*
16 *cess of 370 persons per square mile.*

17 *“(2) STATE URBANIZED LAND FACTOR.—For*
18 *each State qualifying for an apportionment under*
19 *paragraph (1), the Secretary shall calculate an*
20 *amount equal to the product of the urban land area*
21 *of urbanized areas in the State times 370 persons per*
22 *square mile.*

23 *“(3) STATE APPORTIONMENT FACTOR.—For each*
24 *State qualifying for an apportionment under para-*
25 *graph (1), the Secretary shall calculate an amount*

1 *equal to the difference between the total population of*
2 *the State less the amount calculated in paragraph (2).*

3 “(4) *STATE APPORTIONMENT.*—*Each State*
4 *qualifying for an apportionment under paragraph (1)*
5 *shall receive an amount equal to the amount to be ap-*
6 *portioned under this subsection multiplied by the*
7 *amount calculated for the State under paragraph (3)*
8 *divided by the sum of the amounts calculated under*
9 *paragraph (3) for all States qualifying for an appor-*
10 *tionment under paragraph (1).*

11 “(5) *APPORTIONMENTS BETWEEN URBANIZED*
12 *AREAS AND OTHER THAN URBANIZED AREAS IN EACH*
13 *STATE.*—

14 “(A) *IN GENERAL.*—*The Secretary shall ap-*
15 *portion amounts apportioned to each State*
16 *under paragraph (4) so that urbanized areas in*
17 *that State receive an amount equal to the*
18 *amount apportioned to that State multiplied by*
19 *a ratio equal to the sum of the population of all*
20 *urbanized areas in that State divided by the*
21 *total population of that State.*

22 “(B) *REMAINING AMOUNTS.*—*Amounts re-*
23 *maining for each State after apportionment*
24 *under subparagraph (a) shall be apportioned to*

1 that State and added to the amount made avail-
2 able for grants under section 5311.

3 “(6) *APPORTIONMENTS AMONG URBANIZED*
4 *AREAS IN EACH STATE.*—The Secretary shall appor-
5 tion amounts made available to urbanized areas in
6 each State under subsection (c)(5)(A) so that each ur-
7 banized area receives an amount equal to the amount
8 apportioned under subsection (c)(5)(A) multiplied by
9 a ratio equal to the population of each urbanized area
10 divided by the sum of populations of all urbanized
11 areas in the State. Amounts apportioned to each ur-
12 banized area shall be added to amounts apportioned
13 to that urbanized area under section 5336, and made
14 available for grants under section 5307.”.

15 (b) *CONFORMING AMENDMENT.*—The table of sections
16 for chapter 53 is amended by adding at the end the fol-
17 lowing:

“5340. *Apportionments based on growing States and high density States formula factors.*”.

18 **SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.**

19 Section 3037 of the Federal Transit Act of 1998 (49
20 U.S.C. 5309 note) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1)—

23 (i) by striking “means an individual”

24 and inserting the following: “means—

1 “(A) *an individual*”; and

2 (ii) *by striking the period at the end*
3 *and inserting “; or*

4 “(B) *an individual who is eligible for as-*
5 *sistance under the State program of Temporary*
6 *Assistance to Needy Families funded under part*
7 *A of title IV of the Social Security Act (42*
8 *U.S.C. 601 et. seq.) in the State in which the re-*
9 *recipient of a grant under this section is located.*”;
10 *and*

11 (B) *in paragraph (2), by striking “develop-*
12 *ment of” each place it appears and inserting*
13 *“development and provision of”;*

14 (2) *in subsection (i), by amending paragraph (2)*
15 *to read as follows:*

16 “(2) *COORDINATION.—*

17 “(A) *IN GENERAL.—The Secretary shall co-*
18 *ordinate activities under this section with related*
19 *activities under programs of other Federal de-*
20 *partments and agencies.*

21 “(B) *CERTIFICATION.—A recipient of funds*
22 *under this section shall certify that—*

23 “(i) *the project has been derived from*
24 *a locally developed, coordinated public tran-*
25 *sit human services transportation plan; and*

1 “(ii) the plan was developed through a
2 process that included representatives of pub-
3 lic, private, and nonprofit transportation
4 and human services providers and partici-
5 pation by the public.”;

6 (3) by amending subsection (j) to read as follows:

7 “(j) *GRANT REQUIREMENTS.*—

8 “(1) *IN GENERAL.*—

9 “(A) *URBANIZED AREAS.*—A grant awarded
10 under this section to a public agency or private
11 company engaged in public transportation in an
12 urbanized area shall be subject to the all of the
13 terms and conditions to which a grant awarded
14 under section 5307 of title 49, United States
15 Code, is subject, to the extent the Secretary con-
16 siders appropriate.

17 “(B) *OTHER THAN URBANIZED AREAS.*—A
18 grant awarded under this section to a public
19 agency or a private company engaged in public
20 transportation in an area other than urbanized
21 areas shall be subject to all of the terms and con-
22 ditions to which a grant awarded under section
23 5311 of title 49, United States Code, is subject,
24 to the extent the Secretary considers appropriate.

1 “(C) *NONPROFIT ORGANIZATIONS.*—A grant
2 awarded under this section to a private non-
3 profit organization shall be subject to all of the
4 terms and conditions to which a grant made
5 under section 5310 of title 49, United States
6 Code, is subject, to the extent the Secretary con-
7 siders appropriate.

8 “(2) *SPECIAL WARRANTY.*—

9 “(A) *IN GENERAL.*—Section 5333(b) of title
10 49, United States Code, shall apply to grants
11 under this section if the Secretary of Labor uti-
12 lizes a Special Warranty that provides a fair
13 and equitable arrangement to protect the inter-
14 ests of employees.

15 “(B) *WAIVER.*—The Secretary may waive
16 the applicability of the Special Warranty under
17 subparagraph (A) for private non-profit recipi-
18 ents on a case-by-case basis as the Secretary con-
19 siders appropriate.”; and

20 (4) by striking subsections (k) and (l).

21 **SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

22 (a) *SECTION HEADING.*—The section heading for sec-
23 tion 3038 of the Federal Transit Act of 1998 (49 U.S.C.
24 5310 note), is amended to read as follows:

1 **“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PRO-**
2 **GRAM.”.**

3 *(b) FUNDING.—Section 3038(g) of the Federal Transit*
4 *Act of 1998 (49 U.S.C. 5310 note) is amended to read as*
5 *follows:*

6 *“(g) FUNDING.—Of the amounts made available for*
7 *each fiscal year under subsections (a)(1)(C)(iii) and*
8 *(b)(2)(E) of section 5338 of title 49, United States Code—*

9 *“(1) 75 percent shall be available, and shall re-*
10 *main available until expended, for operators of over-*
11 *the-road buses, used substantially or exclusively in*
12 *intercity, fixed-route over-the-road bus service, to fi-*
13 *nance the incremental capital and training costs of*
14 *the Department of Transportation’s final rule regard-*
15 *ing accessibility of over-the-road buses; and*

16 *“(2) 25 percent shall be available, and shall re-*
17 *main available until expended, for operators of over-*
18 *the-road bus service not described in paragraph (1),*
19 *to finance the incremental capital and training costs*
20 *of the Department of Transportation’s final rule re-*
21 *garding accessibility of over-the-road buses.”.*

22 *(b) CONFORMING AMENDMENT.—The item relating to*
23 *section 3038 in the table of contents for the Transportation*
24 *Equity Act for the 21st Century (Public Law 105–178) is*
25 *amended to read as follows:*

“Sec. 3038. Over-the-road bus accessibility program.”.

1 **SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND**
2 **PUBLIC LANDS.**

3 (a) *IN GENERAL.*—Chapter 53 is amended by insert-
4 *ing after section 5315 the following:*

5 **“§ 5316. Alternative transportation in parks and pub-**
6 **lic lands**

7 “(a) *IN GENERAL.*—

8 “(1) *AUTHORIZATION.*—

9 “(A) *IN GENERAL.*—The Secretary, in con-
10 *sultation with the Secretary of the Interior, may*
11 *award a grant or enter into a contract, coopera-*
12 *tive agreement, interagency agreement,*
13 *intraagency agreement, or other transaction to*
14 *carry out a qualified project under this section*
15 *to enhance the protection of America’s National*
16 *Parks and public lands and increase the enjoy-*
17 *ment of those visiting the parks and public lands*
18 *by ensuring access to all, including persons with*
19 *disabilities, improving conservation and park*
20 *and public land opportunities in urban areas*
21 *through partnering with state and local govern-*
22 *ments, and improving park and public land*
23 *transportation infrastructure.*

24 “(B) *CONSULTATION WITH OTHER AGEN-*
25 *CIES.*—*To the extent that projects are proposed*
26 *or funded in eligible areas that are not within*

1 *the jurisdiction of the Department of the Inte-*
2 *rior, the Secretary of the Interior shall consult*
3 *with the heads of the relevant Federal land man-*
4 *agement agencies in carrying out the responsibil-*
5 *ities under this section.*

6 “(2) *USE OF FUNDS.*—*A grant, cooperative*
7 *agreement, interagency agreement, intraagency agree-*
8 *ment, or other transaction for a qualified project*
9 *under this section shall be available to finance the*
10 *leasing of equipment and facilities for use in public*
11 *transportation, subject to any regulation that the Sec-*
12 *retary may prescribe limiting the grant or agreement*
13 *to leasing arrangements that are more cost-effective*
14 *than purchase or construction.*

15 “(b) *DEFINITIONS.*—*As used in this section, the fol-*
16 *lowing definitions shall apply:*

17 “(1) *ELIGIBLE AREA.*—*The term ‘eligible area’*
18 *means any federally owned or managed park, refuge,*
19 *or recreational area that is open to the general public,*
20 *including—*

21 “(A) *a unit of the National Park System;*

22 “(B) *a unit of the National Wildlife Refuge*
23 *System;*

24 “(C) *a recreational area managed by the*
25 *Bureau of Land Management; and*

1 “(D) a recreation area managed by the Bu-
2 reau of Reclamation.

3 “(2) *FEDERAL LAND MANAGEMENT AGENCY.*—
4 *The term ‘Federal land management agency’ means a*
5 *Federal agency that manages an eligible area.*

6 “(3) *ALTERNATIVE TRANSPORTATION.*—*The term*
7 *‘alternative transportation’ means transportation by*
8 *bus, rail, or any other publicly or privately owned*
9 *conveyance that provides to the public general or spe-*
10 *cial service on a regular basis, including sightseeing*
11 *service.*

12 “(4) *QUALIFIED PARTICIPANT.*—*The term ‘quali-*
13 *fied participant’ means—*

14 “(A) *a Federal land management agency; or*

15 “(B) *a State, tribal, or local governmental*
16 *authority with jurisdiction over land in the vi-*
17 *cinity of an eligible area acting with the consent*
18 *of the Federal land management agency, alone or*
19 *in partnership with a Federal land management*
20 *agency or other Governmental or nongovern-*
21 *mental participant.*

22 “(5) *QUALIFIED PROJECT.*—*The term ‘qualified*
23 *project’ means a planning or capital project in or in*
24 *the vicinity of an eligible area that—*

1 “(A) is an activity described in section
2 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

3 “(B) involves—

4 “(i) the purchase of rolling stock that
5 incorporates clean fuel technology or the re-
6 placement of buses of a type in use on the
7 date of enactment of this section with clean
8 fuel vehicles; or

9 “(ii) the deployment of alternative
10 transportation vehicles that introduce inno-
11 vative technologies or methods;

12 “(C) relates to the capital costs of coordi-
13 nating the Federal land management agency
14 public transportation systems with other public
15 transportation systems;

16 “(D) provides a nonmotorized transpor-
17 tation system (including the provision of facili-
18 ties for pedestrians, bicycles, and nonmotorized
19 watercraft);

20 “(E) provides waterborne access within or
21 in the vicinity of an eligible area, as appropriate
22 to and consistent with this section; or

23 “(F) is any other alternative transportation
24 project that—

25 “(i) enhances the environment;

1 “(ii) prevents or mitigates an adverse
2 impact on a natural resource;

3 “(iii) improves Federal land manage-
4 ment agency resource management;

5 “(iv) improves visitor mobility and ac-
6 cessibility and the visitor experience;

7 “(v) reduces congestion and pollution
8 (including noise pollution and visual pollu-
9 tion); or

10 “(vi) conserves a natural, historical, or
11 cultural resource (excluding rehabilitation
12 or restoration of a non-transportation facil-
13 ity).

14 “(c) FEDERAL AGENCY COOPERATIVE ARRANGE-
15 MENTS.—The Secretary shall develop cooperative arrange-
16 ments with the Secretary of the Interior that provide for—

17 “(1) technical assistance in alternative transpor-
18 tation;

19 “(2) interagency and multidisciplinary teams to
20 develop Federal land management agency alternative
21 transportation policy, procedures, and coordination;
22 and

23 “(3) the development of procedures and criteria
24 relating to the planning, selection, and funding of
25 qualified projects and the implementation and over-

1 *sight of the program of projects in accordance with*
2 *this section.*

3 “(d) *LIMITATION ON USE OF AVAILABLE AMOUNTS.—*

4 *“(1) IN GENERAL.—The Secretary, in consulta-*
5 *tion with the Secretary of the Interior, may use not*
6 *more than 10 percent of the amount made available*
7 *for a fiscal year under section 5338(a)(2)(I) to carry*
8 *out planning, research, and technical assistance*
9 *under this section, including the development of tech-*
10 *nology appropriate for use in a qualified project.*

11 *“(2) ADDITIONAL AMOUNTS.—Amounts made*
12 *available under this subsection are in addition to*
13 *amounts otherwise available to the Secretary to carry*
14 *out planning, research, and technical assistance*
15 *under this title or any other provision of law.*

16 *“(3) MAXIMUM AMOUNT.—No qualified project*
17 *shall receive more than 12 percent of the total amount*
18 *made available to carry out this section under section*
19 *5338(a)(2)(I) for any fiscal year.*

20 *“(e) PLANNING PROCESS.—In undertaking a qualified*
21 *project under this section,*

22 *“(1) if the qualified participant is a Federal*
23 *land management agency—*

24 *“(A) the Secretary, in cooperation with the*
25 *Secretary of the Interior, shall develop transpor-*

1 *tation planning procedures that are consistent*
2 *with—*

3 *“(i) the metropolitan planning provi-*
4 *sions under section 5303 of this title;*

5 *“(ii) the statewide planning provisions*
6 *under section 5304 of this title; and*

7 *“(iii) the public participation require-*
8 *ments under section 5307(e); and*

9 *“(B) in the case of a qualified project that*
10 *is at a unit of the National Park system, the*
11 *planning process shall be consistent with the gen-*
12 *eral management plans of the unit of the Na-*
13 *tional Park system; and*

14 *“(2) if the qualified participant is a State or*
15 *local governmental authority, or more than one State*
16 *or local governmental authority in more than one*
17 *State, the qualified participant shall—*

18 *“(A) comply with the metropolitan plan-*
19 *ning provisions under section 5303 of this title;*

20 *“(B) comply with the statewide planning*
21 *provisions under section 5304 of this title;*

22 *“(C) comply with the public participation*
23 *requirements under section 5307(e) of this title;*

24 *and*

1 “(D) consult with the appropriate Federal
2 land management agency during the planning
3 process.

4 “(f) *COST SHARING*.—

5 “(1) The Secretary, in cooperation with the Sec-
6 retary of the Interior, shall establish the agency share
7 of net project cost to be provided under this section
8 to a qualified participant.

9 “(2) In establishing the agency share of net
10 project cost to be provided under this section, the Sec-
11 retary shall consider—

12 “(A) visitation levels and the revenue de-
13 rived from user fees in the eligible area in which
14 the qualified project is carried out;

15 “(B) the extent to which the qualified par-
16 ticipant coordinates with a public transportation
17 authority or private entity engaged in public
18 transportation;

19 “(C) private investment in the qualified
20 project, including the provision of contract serv-
21 ices, joint development activities, and the use of
22 innovative financing mechanisms;

23 “(D) the clear and direct benefit to the
24 qualified participant; and

1 “(E) any other matters that the Secretary
2 considers appropriate to carry out this section.

3 “(3) Notwithstanding any other provision of law,
4 Federal funds appropriated to any Federal land man-
5 agement agency may be counted toward the non-agen-
6 cy share of the net project cost of a qualified project.

7 “(g) SELECTION OF QUALIFIED PROJECTS.—

8 “(1) The Secretary of the Interior, after consulta-
9 tion with and in cooperation with the Secretary, shall
10 determine the final selection and funding of an an-
11 nual program of qualified projects in accordance with
12 this section.

13 “(2) In determining whether to include a project
14 in the annual program of qualified projects, the Sec-
15 retary of the Interior shall consider—

16 “(A) the justification for the qualified
17 project, including the extent to which the quali-
18 fied project would conserve resources, prevent or
19 mitigate adverse impact, and enhance the envi-
20 ronment;

21 “(B) the location of the qualified project, to
22 ensure that the selected qualified projects—

23 “(i) are geographically diverse nation-
24 wide; and

1 “(ii) include qualified projects in eligi-
2 ble areas located in both urban areas and
3 rural areas;

4 “(C) the size of the qualified project, to en-
5 sure that there is a balanced distribution;

6 “(D) the historical and cultural significance
7 of a qualified project;

8 “(E) safety;

9 “(F) the extent to which the qualified
10 project would-

11 “(i) enhance livable communities;

12 “(ii) reduce pollution (including noise
13 pollution, air pollution, and visual pollu-
14 tion);

15 “(iii) reduce congestion; and

16 “(iv) improve the mobility of people in
17 the most efficient manner; and

18 “(G) any other matters that the Secretary
19 considers appropriate to carry out this section,
20 including—

21 “(i) visitation levels;

22 “(ii) the use of innovative financing or
23 joint development strategies; and

24 “(iii) coordination with gateway com-
25 munities.

1 “(h) *QUALIFIED PROJECTS CARRIED OUT IN AD-*
2 *VANCE.*—

3 “(1) *When a qualified participant carries out*
4 *any part of a qualified project without assistance*
5 *under this section in accordance with all applicable*
6 *procedures and requirements, the Secretary, in con-*
7 *sultation with the Secretary of the Interior, may pay*
8 *the share of the net capital project cost of a qualified*
9 *project if—*

10 “(A) *the qualified participant applies for*
11 *the payment;*

12 “(B) *the Secretary approves the payment;*
13 *and*

14 “(C) *before carrying out that part of the*
15 *qualified project, the Secretary approves the*
16 *plans and specifications in the same manner as*
17 *plans and specifications are approved for other*
18 *projects assisted under this section.*

19 “(2)(A) *The cost of carrying out part of a quali-*
20 *fied project under paragraph (1) includes the amount*
21 *of interest earned and payable on bonds issued by a*
22 *State or local governmental authority, to the extent*
23 *that proceeds of the bond are expended in carrying*
24 *out that part.*

1 “(B) *The rate of interest under this paragraph*
2 *may not exceed the most favorable rate reasonably*
3 *available for the qualified project at the time of bor-*
4 *rowing.*

5 “(C) *The qualified participant shall certify, in a*
6 *manner satisfactory to the Secretary, that the quali-*
7 *fied participant has exercised reasonable diligence in*
8 *seeking the most favorable interest rate.*

9 “(i) *RELATIONSHIP TO OTHER LAWS.—*

10 “(1) *SECTION 5307.—A qualified participant*
11 *under this section shall be subject to the requirements*
12 *of sections 5307 and 5333(a) to the extent the Sec-*
13 *retary determines to be appropriate.*

14 “(2) *OTHER REQUIREMENTS.—A qualified par-*
15 *ticipant under this section is subject to any other*
16 *terms, conditions, requirements, and provisions that*
17 *the Secretary determines to be appropriate to carry*
18 *out this section, including requirements for the dis-*
19 *tribution of proceeds on disposition of real property*
20 *and equipment resulting from a qualified project as-*
21 *sisted under this section.*

22 “(3) *PROJECT MANAGEMENT PLAN.—If the*
23 *amount of assistance anticipated to be required for a*
24 *qualified project under this section is not less than*
25 *\$25,000,000—*

1 “(A) the qualified project shall, to the extent
2 the Secretary considers appropriate, be carried
3 out through a full funding grant agreement, in
4 accordance with section 5309(g); and

5 “(B) the qualified participant shall prepare
6 a project management plan in accordance with
7 section 5327(a).

8 “(i) *ASSET MANAGEMENT*.—The Secretary, in con-
9 sultation with the Secretary of the Interior, may transfer
10 the interest of the Department of Transportation in, and
11 control over, all facilities and equipment acquired under
12 this section to a qualified participant for use and dispo-
13 sition in accordance with any property management regula-
14 tions that the Secretary determines to be appropriate.

15 “(j) *COORDINATION OF RESEARCH AND DEPLOYMENT*
16 *OF NEW TECHNOLOGIES*.—

17 “(1) The Secretary, in cooperation with the Sec-
18 retary of the Interior, may undertake, or make
19 grants, cooperative agreements, contracts (including
20 agreements with departments, agencies, and instru-
21 mentalities of the Federal Government) or other
22 transactions for research, development, and deploy-
23 ment of new technologies in eligible areas that will—

24 “(A) conserve resources;

1 “(B) prevent or mitigate adverse environ-
2 mental impact;

3 “(C) improve visitor mobility, accessibility,
4 and enjoyment; and

5 “(D) reduce pollution (including noise pol-
6 lution and visual pollution).

7 “(2) The Secretary may request and receive ap-
8 propriate information from any source.

9 “(3) Grants, cooperative agreements, contracts or
10 other transactions under paragraph (1) shall be
11 awarded from amounts allocated under subsection
12 (c)(1).

13 “(k) *INNOVATIVE FINANCING*.—A qualified project re-
14 ceiving financial assistance under this section shall be eligi-
15 ble for funding through a state infrastructure bank or other
16 innovative financing mechanism available to finance an el-
17 igible project under this chapter.

18 “(l) *REPORTS*.—

19 “(1) *IN GENERAL*.—The Secretary, in consulta-
20 tion with the Secretary of the Interior, shall annually
21 submit a report on the allocation of amounts made
22 available to assist qualified projects under this section
23 to—

24 “(A) the Committee on Banking, Housing,
25 and Urban Affairs of the Senate; and

1 “(B) *the Committee on Transportation and*
2 *Infrastructure of the House of Representatives.*”

3 “(2) *ANNUAL AND SUPPLEMENTAL REPORTS.—*
4 *The report required under paragraph (1) shall be in-*
5 *cluded in the report submitted under section*
6 *5309(m).”.*

7 “(b) *CONFORMING AMENDMENTS.—The table of sections*
8 *for chapter 53 is amended by inserting after the item relat-*
9 *ing to section 5315 the following:*

 “5316. *Alternative transportation in parks and public lands.”.*

10 **SEC. 3042. OBLIGATION CEILING.**

11 *Notwithstanding any other provision of law, the total*
12 *of all obligations from amounts made available from the*
13 *Mass Transit Account of the Highway Trust Fund by, and*
14 *amounts appropriated under, subsections (a) through (c) of*
15 *section 5338 of title 49, United States Code, shall not ex-*
16 *ceed—*

17 (1) *\$7,265,876,900 for fiscal year 2004;*

18 (2) *\$8,650,000,000 for fiscal year 2005;*

19 (3) *\$9,085,123,000 for fiscal year 2006;*

20 (4) *\$9,600,000,000 for fiscal year 2007;*

21 (5) *\$10,490,000,000 for fiscal year 2008; and*

22 (6) *\$11,430,000,000 for fiscal year 2009.*

1 **SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPOR-**
2 **TATION EXTENSION ACT OF 2003.**

3 (a) *IN GENERAL.*—Notwithstanding any other provi-
4 sion of law, the Secretary shall reduce the total apporportion-
5 ments and allocations made for fiscal year 2004 to each
6 grant recipient under section 5338 of title 49, United States
7 Code, by the amount apportioned to that recipient pursuant
8 to section 8 of the Surface Transportation Extension Act
9 of 2003 (117 Stat. 1121).

10 (b) *FIXED GUIDEWAY MODERNIZATION ADJUST-*
11 *MENT.*—In making the apportionments described in sub-
12 section (a), the Secretary shall adjust the amount appor-
13 tioned for fiscal year 2004 to each urbanized area for fixed
14 guideway modernization to reflect the apportionment meth-
15 od set forth in 5337(a) of title 49, United States Code.

16 **SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.**

17 Section 1101(b) of the Transportation Equity Act of
18 the 21st Century shall apply to all funds authorized or oth-
19 erwise made available under this title.

20 **SEC. 3045. INTERMODAL PASSENGER FACILITIES.**

21 (a) *IN GENERAL.*—Chapter 55 of title 49, United
22 States Code, is amended by adding at the end the following:

1 “SUBCHAPTER III—INTERMODAL PASSENGER
2 FACILITIES

3 **§5571. Policy and purposes**

4 “(a) *DEVELOPMENT AND ENHANCEMENT OF INTER-*
5 *MODAL PASSENGER FACILITIES.*—*It is in the economic in-*
6 *terest of the United States to improve the efficiency of public*
7 *surface transportation modes by ensuring their connection*
8 *with and access to intermodal passenger terminals, thereby*
9 *streamlining the transfer of passengers among modes, en-*
10 *hancing travel options, and increasing passenger transpor-*
11 *tation operating efficiencies.*

12 “(b) *GENERAL PURPOSES.*—*The purposes of this sub-*
13 *chapter are to accelerate intermodal integration among*
14 *North America’s passenger transportation modes through—*

15 “(1) *ensuring intercity public transportation ac-*
16 *cess to intermodal passenger facilities;*

17 “(2) *encouraging the development of an inte-*
18 *grated system of public transportation information;*

19 *and*

20 “(3) *providing intercity bus intermodal pas-*
21 *senger facility grants.*

22 **§5572. Definitions**

23 “In this subchapter—

24 “(1) ‘capital project’ means a project for—

1 “(A) acquiring, constructing, improving, or
2 renovating an intermodal facility that is related
3 physically and functionally to intercity bus serv-
4 ice and establishes or enhances coordination be-
5 tween intercity bus service and transportation,
6 including aviation, commuter rail, intercity rail,
7 public transportation, seaports, and the National
8 Highway System, such as physical infrastruc-
9 ture associated with private bus operations at
10 existing and new intermodal facilities, including
11 special lanes, curb cuts, ticket kiosks and
12 counters, baggage and package express storage,
13 employee parking, office space, security, and
14 signage; and

15 “(B) establishing or enhancing coordination
16 between intercity bus service and transportation,
17 including aviation, commuter rail, intercity rail,
18 public transportation, and the National High-
19 way System through an integrated system of
20 public transportation information.

21 “(2) ‘commuter service’ means service designed
22 primarily to provide daily work trips within the local
23 commuting area.

24 “(3) ‘intercity bus service’ means regularly
25 scheduled bus service for the general public which op-

1 *erates with limited stops over fixed routes connecting*
2 *two or more urban areas not in close proximity,*
3 *which has the capacity for transporting baggage car-*
4 *ried by passengers, and which makes meaningful con-*
5 *nections with scheduled intercity bus service to more*
6 *distant points, if such service is available and may*
7 *include package express service, if incidental to pas-*
8 *senger transportation, but does not include air, com-*
9 *muter, water or rail service.*

10 *“(4) ‘intermodal passenger facility’ means pas-*
11 *senger terminal that does, or can be modified to, ac-*
12 *commodate several modes of transportation and re-*
13 *lated facilities, including some or all of the following:*
14 *intercity rail, intercity bus, commuter rail, intracity*
15 *rail transit and bus transportation, airport limousine*
16 *service and airline ticket offices, rent-a-car facilities,*
17 *taxis, private parking, and other transportation serv-*
18 *ices.*

19 *“(5) ‘local governmental authority’ includes—*

20 *“(A) a political subdivision of a State;*

21 *“(B) an authority of at least one State or*
22 *political subdivision of a State;*

23 *“(C) an Indian tribe; and*

24 *“(D) a public corporation, board, or com-*
25 *mission established under the laws of the State.*

1 “(6) ‘owner or operator of a public transpor-
2 tation facility’ means an owner or operator of inter-
3 city-rail, intercity-bus, commuter-rail, commuter-bus,
4 rail-transit, bus-transit, or ferry services.

5 “(7) ‘recipient’ means a State or local govern-
6 mental authority or a nonprofit organization that re-
7 ceives a grant to carry out this section directly from
8 the Federal government.

9 “(8) ‘Secretary’ means the Secretary of Trans-
10 portation.

11 “(9) ‘State’ means a State of the United States,
12 the District of Columbia, Puerto Rico, the Northern
13 Mariana Islands, Guam, American Samoa, and the
14 Virgin Islands.

15 “(10) ‘urban area’ means an area that includes
16 a municipality or other built-up place that the Sec-
17 retary, after considering local patterns and trends of
18 urban growth, decides is appropriate for a local pub-
19 lic transportation system to serve individuals in the
20 locality.

21 “**§5573. Assurance of access to intermodal passenger**
22 **facilities**

23 “Intercity buses and other modes of transportation
24 shall, to the maximum extent practicable, have access to
25 publicly funded intermodal passenger facilities, including

1 *those passenger facilities seeking funding under section*
2 *5574.*

3 **“§ 5574. Intercity bus intermodal passenger facility**
4 **grants**

5 “(a) *GENERAL AUTHORITY.*—*The Secretary of Trans-*
6 *portation may make grants under this section to recipients*
7 *in financing a capital project only if the Secretary finds*
8 *that the proposed project is justified and has adequate fi-*
9 *nancial commitment.*

10 “(b) *COMPETITIVE GRANT SELECTION.*—*The Secretary*
11 *shall conduct a national solicitation for applications for*
12 *grants under this section. Grantees shall be selected on a*
13 *competitive basis.*

14 “(c) *SHARE OF NET PROJECT COSTS.*—*A grant shall*
15 *not exceed 50 percent of the net project cost, as determined*
16 *by the Secretary.*

17 “(d) *REGULATIONS.*—*The Secretary may promulgate*
18 *such regulations as are necessary to carry out this section.*

19 **“§ 5575. Funding**

20 “(a) *HIGHWAY ACCOUNT.*—

21 “(1) *There is authorized to be appropriated from*
22 *the Highway Trust Fund (other than the Mass Tran-*
23 *sit Account) to carry out this subchapter \$10,000,000*
24 *for each of fiscal years 2005 through 2009.*

1 “(2) *The funding made available under para-*
 2 *graph (1) shall be available for obligation in the same*
 3 *manner as if such funds were apportioned under*
 4 *chapter 1 of title 23 and shall be subject to any obli-*
 5 *gation limitation imposed on funds for Federal-aid*
 6 *highways and highway safety construction programs.*

7 “(b) *PERIOD OF AVAILABILITY.—Amounts made avail-*
 8 *able under subsection (a) shall remain available until ex-*
 9 *pired.*”.

10 (b) *CONFORMING AMENDMENT.—The chapter analysis*
 11 *for chapter 55 of title 49, United States Code, is amended*
 12 *by adding at the end the following:*

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. *Policy and Purposes.*

“5572. *Definitions.*

“5573. *Assurance of access to intermodal facilities.*

“5574. *Intercity bus intermodal facility grants.*

“5575. *Funding.*”.

13 **TITLE IV—SURFACE**
 14 **TRANSPORTATION SAFETY**

15 **SEC. 4001. SHORT TITLE.**

16 *This title may be cited as the “Surface Transportation*
 17 *Safety Reauthorization Act of 2004”.*

1 **Subtitle A—Highway Safety**

2 **PART I—HIGHWAY SAFETY GRANT PROGRAM**

3 **SEC. 4101. SHORT TITLE; AMENDMENT OF TITLE 23, UNITED**
4 **STATES CODE.**

5 (a) *SHORT TITLE.*—This subpart may be cited as the
6 “*Highway Safety Grant Program Reauthorization Act of*
7 2004”.

8 (b) *AMENDMENT OF TITLE 23, UNITED STATES*
9 *CODE.*—Except as otherwise expressly provided, whenever
10 in this subpart an amendment or repeal is expressed in
11 terms of an amendment to, or a repeal of, a section or other
12 provision, the reference shall be considered to be made to
13 a section or other provision of title 23, United States Code.

14 **SEC. 4102. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) *AMOUNTS FOR FISCAL YEARS 2004 THROUGH*
16 2009.—There are authorized to be appropriated from the
17 Highway Trust Fund (other than the Mass Transit Ac-
18 count) to the Secretary of Transportation for the National
19 Highway Traffic Safety Administration the following:

20 (1) *To carry out the Highway Safety Programs*
21 *under section 402 of title 23, United States Code,*
22 *\$170,000,000 in fiscal year 2004, \$174,000,000 in fis-*
23 *cal year 2005, \$179,000,000 in fiscal year 2006,*
24 *\$185,000,000 in fiscal year 2007, \$204,000,000 in fis-*
25 *cal year 2008, and \$207,000,000 in fiscal year 2009.*

1 (2) *To carry out the Highway Safety Research*
2 *and Outreach Programs under section 403 of title 23,*
3 *United States Code, \$110,000,000 in fiscal year 2004,*
4 *\$112,000,000 in fiscal year 2005, \$114,000,000 in fis-*
5 *cal year 2006, \$116,000,000 in fiscal year 2007,*
6 *\$118,000,000 in fiscal year 2008, and \$120,000,000*
7 *in fiscal year 2009.*

8 (3) *To carry out the Occupant Protection Pro-*
9 *grams under section 405 of title 23, United States*
10 *Code, \$120,000,000 in fiscal year 2004, \$122,000,000*
11 *in fiscal year 2005, \$124,000,000 in fiscal year 2006,*
12 *\$126,000,000 in fiscal year 2007, \$128,000,000 in fis-*
13 *cal year 2008, and \$130,000,000 in fiscal year 2009.*

14 (4) *To carry out the Emergency Medical Services*
15 *Program under section 407A of title 23, United States*
16 *Code, \$5,000,000 in each of fiscal years 2004 through*
17 *2009.*

18 (5) *To carry out the Impaired Driving Program*
19 *under section 410 of title 23, United States Code,*
20 *\$85,000,000 in fiscal year 2004, \$89,000,000 in fiscal*
21 *year 2005, \$93,000,000 in fiscal year 2006,*
22 *\$110,000,000 in fiscal year 2007, \$126,000,000 in fis-*
23 *cal year 2008, and \$130,000,000 in fiscal year 2009.*

24 (6) *To carry out the State Traffic Safety Infor-*
25 *mation System Improvements under section 412 of*

1 *title 23, United States Code, \$45,000,000 in each of*
2 *fiscal years 2004 through 2009.*

3 *(7) To carry out chapter 303 of title 49, United*
4 *States Code, \$4,000,000 for each of fiscal years 2004*
5 *through 2009.*

6 *(b) PROHIBITION ON OTHER USES.—Except as other-*
7 *wise provided in this subtitle, the amounts allocated from*
8 *the Highway Trust Fund for programs provided for in*
9 *chapter 4 of title 23, United States Code, shall only be used*
10 *for such programs and may not be used by States or local*
11 *governments for construction purposes.*

12 *(c) EFFECT OF REVENUE DEFICIENCY.—If revenue to*
13 *the Highway Trust Fund for a given fiscal year is lower*
14 *than the amounts authorized by this subpart, any subse-*
15 *quent reductions in the overall funding for highway and*
16 *transit programs shall not affect the highway safety pro-*
17 *grams provided for in chapter 4 of title 23, United States*
18 *Code.*

19 *(d) PROPORTIONAL INCREASES.—For each fiscal year*
20 *from 2004 through 2009, if revenue to the Highway Trust*
21 *Fund increases above the amounts for each such fiscal year*
22 *set forth in the fiscal year 2004 joint budget resolution, then*
23 *the amounts made available in such year for the programs*
24 *in sections 402, 405, and 410 shall increase by the same*
25 *percentage.*

1 **SEC. 4103. HIGHWAY SAFETY PROGRAMS.**

2 (a) *PROGRAMS TO BE INCLUDED.*—

3 (1) *MOTOR VEHICLE AIRBAGS PUBLIC AWARE-*
4 *NESS.*—Section 402(a)(2) is amended by striking “ve-
5 *hicles and to increase public awareness of the benefit*
6 *of motor vehicles equipped with airbags” and insert-*
7 *ing “vehicles,”.*

8 (2) *AGGRESSIVE DRIVING.*—Section 402(a) is fur-
9 *ther amended—*

10 (A) *by redesignating clause (6) as clause*
11 *(8);*

12 (B) *by inserting after “involving school*
13 *buses,” at the end of clause (5) the following:*
14 *“(6) to reduce aggressive driving and to educate*
15 *drivers about defensive driving, (7) to reduce ac-*
16 *cidents resulting from fatigued and distracted*
17 *drivers, including distractions arising from the*
18 *use of electronic devices in vehicles,”; and*

19 (C) *by inserting “aggressive driving, dis-*
20 *traced driving,” after “school bus accidents,”.*

21 (b) *APPORTIONMENT.*—

22 (1) *TRIBAL GOVERNMENT PROGRAMS.*—Section
23 402(c) is amended by striking “three-fourths of 1 per-
24 cent” and inserting “2 percent”.

1 (c) *EXTRA FUNDING FOR OCCUPANT PROTECTION AND*
2 *IMPAIRED DRIVING PROGRAMS.*—Section 402 is amended
3 *by inserting after subsection (g) the following:*

4 “(h) *GRANTS.*—Funds available to States under this
5 *section may be used for making grants of financial assist-*
6 *ance for programs and initiatives authorized by sections*
7 *405 and 410 of this title.”.*

8 (d) *LAW ENFORCEMENT CHASE TRAINING.*—Section
9 *402 is amended by adding at the end the following:*

10 “(l) *LIMITATION RELATING TO LAW ENFORCEMENT*
11 *VEHICULAR PURSUIT TRAINING.*—No State may receive
12 *any funds available for fiscal years after fiscal year 2004*
13 *for programs under this chapter until the State submits to*
14 *the Secretary a written statement that the State actively*
15 *encourages all relevant law enforcement agencies in that*
16 *State to follow the guidelines established for police chases*
17 *issued by the International Association of Chiefs of Police*
18 *that are in effect on the date of enactment of the Highway*
19 *Safety Grant Program Reauthorization Act of 2004, or as*
20 *revised and in effect after that date as determined by the*
21 *Secretary.*

22 “(m) *CONSOLIDATION OF GRANT APPLICATIONS.*—The
23 *Secretary shall establish an approval process by which a*
24 *State may apply for all grants included under this chapter*
25 *through a single application with a single annual deadline.*

1 *The Bureau of Indian Affairs shall establish a similarly*
2 *simplified process for applications from Indian tribes.*

3 “(n) *ADMINISTRATIVE EXPENSES.*—*Funds authorized*
4 *to be appropriated to carry out this section shall be subject*
5 *to a deduction of not to exceed 5 percent for the necessary*
6 *costs of administering the provisions of this section, section*
7 *405, section 407A, section 410, and 413 of this chapter.*”.

8 **SEC. 4104. HIGHWAY SAFETY RESEARCH AND OUTREACH**
9 **PROGRAMS.**

10 (a) *REVISED AUTHORITY AND REQUIREMENTS.*—*Sec-*
11 *tion 403 is amended to read as follows:*

12 **“§ 403. Highway safety research and development**

13 “(a) *AUTHORITY OF THE SECRETARY.*—*The Secretary*
14 *is authorized to use funds appropriated to carry out this*
15 *section to—*

16 “(1) *conduct research on all phases of highway*
17 *safety and traffic conditions, including accident cau-*
18 *sation, highway or driver characteristics, communica-*
19 *tions, and emergency care;*

20 “(2) *conduct ongoing research into driver behav-*
21 *ior and its effect on traffic safety;*

22 “(3) *conduct research on, and launch initiatives*
23 *to counter, fatigued driving by drivers of motor vehi-*
24 *cles and distracted driving in such vehicles, including*
25 *the effect that the use of electronic devices and other*

1 *factors deemed relevant by the Secretary have on driv-*
2 *ing;*

3 “(4) *conduct training or education programs in*
4 *cooperation with other Federal departments and*
5 *agencies, States, private sector persons, highway safe-*
6 *ty personnel, and law enforcement personnel;*

7 “(5) *conduct research on, and evaluate the effec-*
8 *tiveness of, traffic safety countermeasures, including*
9 *seat belts and impaired driving initiatives; and*

10 “(6) *conduct demonstration projects.*

11 “(b) *SPECIFIC RESEARCH PROGRAMS.—*

12 “(1) *REQUIRED PROGRAMS.—The Secretary shall*
13 *conduct research on the following:*

14 “(A) *EFFECTS OF USE OF CONTROLLED*
15 *SUBSTANCES.—A study on the effects of the use*
16 *of controlled substances on driver behavior to de-*
17 *termine—*

18 “(i) *methodologies for measuring driver*
19 *impairment resulting from use of the most*
20 *common controlled substances (including the*
21 *use of such substances in combination with*
22 *alcohol); and*

23 “(ii) *effective and efficient methods for*
24 *training law enforcement personnel to detect*
25 *or measure the level of impairment of a*

1 *driver who is under the influence of a con-*
2 *trolled substance by the use of technology or*
3 *otherwise.*

4 “(B) *ON-SCENE MOTOR VEHICLE COLLISION*
5 *CAUSATION.—A nationally representative study*
6 *to collect on-scene motor vehicle collision data,*
7 *and to determine crash causation, for which the*
8 *Secretary shall enter into a contract with the*
9 *National Academy of Sciences to conduct a re-*
10 *view of the research, design, methodology, and*
11 *implementation of the study.*

12 “(C) *TOLL FACILITIES WORKPLACE SAFE-*
13 *TY.—A study on the safety of highway toll collec-*
14 *tion facilities, including toll booths, conducted in*
15 *cooperation with State and local highway safety*
16 *organizations to determine the safety of highway*
17 *toll collection facilities for the toll collectors who*
18 *work in and around such facilities and to de-*
19 *velop best practices that would be of benefit to*
20 *State and local highway safety organizations.*
21 *The study shall consider—*

22 “(i) *any problems resulting from de-*
23 *sign or construction of facilities that con-*
24 *tribute to the occurrence of vehicle collisions*
25 *with the facilities;*

1 “(ii) the safety of crosswalks used by
2 toll collectors in transit to and from toll
3 booths;

4 “(iii) the extent of the enforcement of
5 speed limits at and in the vicinity of toll
6 facilities;

7 “(iv) the use of warning devices, such
8 as vibration and rumble strips, to alert
9 drivers approaching toll facilities;

10 “(v) the use of cameras to record traffic
11 violations in the vicinity of toll facilities;

12 “(vi) the use of traffic control arms in
13 the vicinity of toll facilities;

14 “(vii) law enforcement practices and
15 jurisdictional issues that affect safety at
16 and in the vicinity of toll facilities; and

17 “(viii) data (which shall be collected in
18 conducting the research) regarding the inci-
19 dence of accidents and injuries at and
20 around toll booth facilities.

21 “(2) *TIME FOR COMPLETION OF STUDIES.*—The
22 studies conducted in subparagraphs (A), (B), and (C)
23 of paragraph (1) may be conducted in concert with
24 other Federal departments and agencies with relevant
25 expertise. The Secretary shall submit an annual re-

1 *port to the Senate Committee on Commerce, Science,*
2 *and Transportation and the House of Representatives*
3 *Committee on Transportation and Infrastructure on*
4 *the progress of each study conducted under this sub-*
5 *section.*

6 “(3) *ONGOING STUDIES.*—*The studies under sub-*
7 *paragraphs (A) and (B) of paragraph (1) shall be*
8 *conducted on an ongoing basis.*

9 “(4) *REPORTS.*—

10 “(A) *ONE-TIME STUDY.*—*Not later than 2*
11 *years after the date of enactment of the Highway*
12 *Safety Grant Program Reauthorization Act of*
13 *2004, the Secretary shall submit a final report*
14 *on the study referred to in paragraph (1)(C) to*
15 *the Committee on Commerce, Science, and*
16 *Transportation of the Senate and the Committee*
17 *on Transportation and Infrastructure of the*
18 *House of Representatives.*

19 “(B) *ONGOING STUDIES.*—*The Secretary*
20 *shall submit a report on the studies referred to*
21 *in paragraph (3) to the Committees of Congress*
22 *referred to in subparagraph (A) not later than*
23 *December 31, 2005, and shall submit additional*
24 *reports on such studies to such committees every*
25 *2 years. Such additional reports shall contain*

1 *the findings, progress, remaining challenges, re-*
2 *search objectives, and other relevant data relat-*
3 *ing to the ongoing studies.*

4 “(5) *RESEARCH ON DISTRACTED, INATTENTIVE,*
5 *AND FATIGUED DRIVERS.—In conducting research*
6 *under subsection (a)(3), the Secretary shall carry out*
7 *not less than 5 demonstration projects to evaluate new*
8 *and innovative means of combatting traffic system*
9 *problems caused by distracted, inattentive, or fatigued*
10 *drivers. The demonstration projects shall be in addi-*
11 *tion to any other research carried out under this sub-*
12 *section.*

13 “(c) *NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—*

14 “(1) *REQUIREMENT FOR CAMPAIGNS.—The Ad-*
15 *ministrator of the National Highway Traffic Safety*
16 *Administration shall establish and administer a pro-*
17 *gram under which 3 high-visibility traffic safety law*
18 *enforcement campaigns will be carried out for the*
19 *purposes specified in paragraph (2) in each of years*
20 *2004 through 2009.*

21 “(2) *PURPOSE.—The purpose of each law en-*
22 *forcement campaign is to achieve either or both of the*
23 *following objectives:*

24 “(A) *Reduce alcohol-impaired or drug-im-*
25 *paired operation of motor vehicles.*

1 “(B) Increase use of seat belts by occupants
2 of motor vehicles.

3 “(3) *ADVERTISING.*—*The Administrator may*
4 *use, or authorize the use of, funds available under this*
5 *section to pay for the development, production, and*
6 *use of broadcast and print media advertising in car-*
7 *rying out traffic safety law enforcement campaigns*
8 *under this subsection. Consideration shall be given to*
9 *advertising directed at non-English speaking popu-*
10 *lations, including those who listen, read, or watch*
11 *nontraditional media.*

12 “(4) *COORDINATION WITH STATES.*—*The Admin-*
13 *istrator shall coordinate with the States in carrying*
14 *out the traffic safety law enforcement campaigns*
15 *under this subsection, including advertising funded*
16 *under paragraph (3), with a view to—*

17 “(A) *relying on States to provide the law*
18 *enforcement resources for the campaigns out of*
19 *funding available under this section and sections*
20 *402, 405, and 410 of this title; and*

21 “(B) *providing out of National Highway*
22 *Traffic Safety Administration resources most of*
23 *the means necessary for national advertising and*
24 *education efforts associated with the law enforce-*
25 *ment campaigns.*

1 “(5) *ANNUAL EVALUATION.*—*The Secretary shall*
2 *conduct an annual evaluation of the effectiveness of*
3 *such initiatives.*

4 “(6) *FUNDING.*—*The Secretary shall use*
5 *\$24,000,000 in each of fiscal years 2004 through 2009*
6 *for advertising and educational initiatives to be car-*
7 *ried out nationwide in support of the campaigns*
8 *under this section.*

9 “(d) *IMPROVING OLDER DRIVER SAFETY.*—

10 “(1) *IN GENERAL.*—*Of the funds made available*
11 *under this section, the Secretary shall allocate*
12 *\$2,000,000 in each of fiscal years 2004 through 2009*
13 *to conduct a comprehensive research and demonstra-*
14 *tion program to improve traffic safety pertaining to*
15 *older drivers. The program shall—*

16 “(A) *provide information and guidelines to*
17 *assist physicians and other related medical per-*
18 *sonnel, families, licensing agencies, enforcement*
19 *officers, and various public and transit agencies*
20 *in enhancing the safety and mobility of older*
21 *drivers;*

22 “(B) *improve the scientific basis of medical*
23 *standards and screenings strategies used in the*
24 *licensing of all drivers in a non-discriminatory*
25 *manner;*

1 “(C) conduct field tests to assess the safety
2 benefits and mobility impacts of different driver
3 licensing strategies and driver assessment and
4 rehabilitation methods;

5 “(D) assess the value and improve the safety
6 potential of driver retraining courses of par-
7 ticular benefit to older drivers; and

8 “(E) conduct other activities to accomplish
9 the objectives of this action.

10 “(2) FORMULATION OF PLAN.—After consultation
11 with affected parties, the Secretary shall formulate an
12 older driver traffic safety plan to guide the design
13 and implementation of this program. The plan shall
14 be submitted to the House of Representatives Com-
15 mittee on Transportation and Infrastructure and the
16 Senate Committee on Commerce, Science, and Trans-
17 portation within 180 days after the date of enactment
18 of the Highway Safety Grant Program Reauthoriza-
19 tion Act of 2004.

20 “(e) LAW ENFORCEMENT TRAINING.—

21 “(1) REQUIREMENT FOR PROGRAM.—The Ad-
22 ministrator of the National Highway Traffic Safety
23 Administration shall carry out a program to train
24 law enforcement personnel of each State and political
25 subdivision thereof in police chase techniques that are

1 *consistent with the police chase guidelines issued by*
2 *the International Association of Chiefs of Police.*

3 “(2) *AMOUNT FOR PROGRAM.*—*Of the amount*
4 *available for a fiscal year to carry out this section,*
5 *\$200,000 shall be available for carrying out this sub-*
6 *section.*

7 “(f) *INTERNATIONAL COOPERATION.*—

8 “(1) *AUTHORITY.*—*The Administrator of the Na-*
9 *tional Highway Traffic Safety Administration may*
10 *participate and cooperate in international activities*
11 *to enhance highway safety.*

12 “(2) *AMOUNT FOR PROGRAM.*—*Of the amount*
13 *available for a fiscal year to carry out this section,*
14 *\$200,000 may be used for activities authorized under*
15 *paragraph (1).”.*

16 “(b) *STUDY ON REFUSAL OF INTOXICATION TESTING.*—

17 “(1) *REQUIREMENT FOR STUDY.*—*In addition to*
18 *studies under section 403 of title 23, United States*
19 *Code, the Secretary of Transportation shall carry out*
20 *a study of the frequency with which persons arrested*
21 *for the offense of operating a motor vehicle under the*
22 *influence of alcohol and persons arrested for the of-*
23 *fense of operating a motor vehicle while intoxicated*
24 *refuse to take a test to determine blood alcohol con-*
25 *centration levels and the effect such refusals have on*

1 *the ability of States to prosecute such persons for*
2 *those offenses.*

3 (2) *CONSULTATION.*—*In carrying out the study*
4 *under this section, the Secretary shall consult with the*
5 *Governors of the States, the States' Attorneys General,*
6 *and the United States Sentencing Commission.*

7 (3) *REPORT.*—

8 (A) *REQUIREMENT FOR REPORT.*—*Not later*
9 *than 1 year after the date of the enactment of*
10 *this Act, the Secretary shall submit a report on*
11 *the results of the study to the Committee on*
12 *Commerce, Science, and Transportation of the*
13 *Senate and the Committee on Transportation*
14 *and Infrastructure of the House of Representa-*
15 *tives.*

16 (B) *CONTENT.*—*The report shall include*
17 *any recommendation for legislation, including*
18 *any recommended model State legislation, and*
19 *any other recommendations that the Secretary*
20 *considers appropriate for implementing a pro-*
21 *gram designed to decrease the occurrence refusals*
22 *by arrested persons to submit to a test to deter-*
23 *mine blood alcohol concentration levels.*

1 **SEC. 4105. NATIONAL HIGHWAY SAFETY ADVISORY COM-**
2 **MITTEE TECHNICAL CORRECTION.**

3 *Section 404(d) is amended by striking “Commerce”*
4 *and inserting “Transportation”.*

5 **SEC. 4106. OCCUPANT PROTECTION GRANTS.**

6 *Section 405 is amended—*

7 *(1) by striking the second sentence of subsection*
8 *(a)(1);*

9 *(2) by striking “Transportation Equity Act for*
10 *the 21st Century.” in subsection (a)(2) and inserting*
11 *“Highway Safety Grant Program Reauthorization*
12 *Act of 2004.”;*

13 *(3) by striking subsections (a)(3) and (4), (b),*
14 *(c), and (d) and redesignating subsections (e) and (f)*
15 *as subsections (d) and (e), respectively; and*

16 *(4) by inserting after subsection (a) the fol-*
17 *lowing:*

18 *“(b) OCCUPANT PROTECTION GRANTS.—*

19 *“(1) IN GENERAL.—In addition to the grants au-*
20 *thorized by subsection (a), the Secretary shall make*
21 *grants in accordance with this subsection.*

22 *“(2) SAFETY BELT PERFORMANCE GRANTS.—*

23 *“(A) PRIMARY SAFETY BELT USE LAW.—*

24 *“(i) For fiscal years 2004 and 2005,*
25 *the Secretary shall make a grant to each*
26 *State that enacted, and is enforcing, a pri-*

1 *mary safety belt use law for all passenger*
2 *motor vehicles that became effective by De-*
3 *cember 31, 2002.*

4 *“(ii) For each of fiscal years 2004*
5 *through 2009, the Secretary shall, after*
6 *making grants under clause (i) of this sub-*
7 *paragraph, make a one-time grant to each*
8 *State that either enacts for the first time*
9 *after December 31, 2002, and has in effect*
10 *a primary safety belt use law for all pas-*
11 *senger motor vehicles, or, in the case of a*
12 *State that does not have such a primary*
13 *safety belt use law, has a State safety belt*
14 *use rate in the preceding fiscal year of at*
15 *least 90 percent, as measured under criteria*
16 *determined by the Secretary.*

17 *“(iii) Of the funds authorized for*
18 *grants under this subsection, \$100,000,000*
19 *in each of fiscal years 2004 through 2009*
20 *shall be available for grants under this*
21 *paragraph. The amount of a grant available*
22 *to a State in each of fiscal years 2004 and*
23 *2005 under clause (i) of this subparagraph*
24 *shall be equal to 1/2 of the amount of funds*
25 *apportioned to the State under section*

1 402(c) for fiscal year 2003. The amount of
2 a grant available to a State in fiscal year
3 2004 or in a subsequent fiscal year under
4 clause (ii) of this subparagraph shall be
5 equal to 5 times the amount apportioned to
6 the State for fiscal year 2003 under section
7 402(c). A State that receives a grant under
8 clause (ii) of this subparagraph is ineligible
9 to receive funding under subparagraph (B)
10 for that fiscal year and the following fiscal
11 year. The Federal share payable for grants
12 under this subparagraph shall be 100 per-
13 cent. If the total amount of grants under
14 clause (ii) of this subparagraph for a fiscal
15 year exceeds the amount of funds available
16 in the fiscal year, grants shall be made to
17 each eligible State, in the order in which its
18 primary safety belt use law became effective
19 or its safety belt use rate reached 90 per-
20 cent, until the funds for the fiscal year are
21 exhausted. A State that does not receive a
22 grant for which it is eligible in a fiscal year
23 shall receive the grant in the succeeding fis-
24 cal year so long as its law remains in effect
25 or its safety belt use rate remains at or

1 *above 90 percent. If the total amount of*
2 *grants under this subparagraph for a fiscal*
3 *year is less than the amount available in*
4 *the fiscal year, the Secretary shall use any*
5 *funds that exceed the total amount for*
6 *grants under subparagraph (B) of this*
7 *paragraph.*

8 “(B) SAFETY BELT USE RATE.—

9 “(i) For each fiscal year, from 2004
10 *through 2009, the funds authorized for a*
11 *grant under this subparagraph shall be*
12 *awarded to States that increase their meas-*
13 *ured safety belt use rate, as determined by*
14 *the Secretary, by decreasing the proportion*
15 *of non-users of safety belts by 10 percent, as*
16 *compared to the proportion of non-users, in*
17 *the preceding fiscal year.*

18 “(ii) Each State that meets the re-
19 *quirement of clause (i) of this subparagraph*
20 *shall be apportioned an amount of funds*
21 *that is equal to the amount available under*
22 *this subparagraph for the relevant fiscal*
23 *year multiplied by the ratio that the funds*
24 *apportioned to the State under section 402*
25 *for such fiscal year bear to the funds appor-*

1 tioned under section 402 for such fiscal year
2 to all states that qualify for a grant for
3 such fiscal year.

4 “(iii) Of the funds authorized for
5 grants under this subsection, \$20,000,000
6 for fiscal year 2004, \$22,000,000 for fiscal
7 year 2005, \$24,000,000 for fiscal year 2006,
8 \$26,000,000 for fiscal year 2007,
9 \$28,000,000 for fiscal year 2008, and
10 \$30,000,000 for fiscal year 2009 shall be
11 available for safety belt use rate grants
12 under this subparagraph.

13 “(iv) The Federal share payable for
14 grants under this subparagraph shall be 100
15 percent.

16 “(c) *USE OF GRANTS.*—A State allocated an amount
17 for a grant under subparagraph (A) or (B) of subsection
18 (b)(2) may use the amount for activities eligible for assist-
19 ance under sections 402, 405, and 410 of this title.”.

20 **SEC. 4107. SCHOOL BUS DRIVER TRAINING.**

21 Section 406(c) is amended by striking the first, second,
22 and third sentences.

1 **SEC. 4108. EMERGENCY MEDICAL SERVICES.**

2 (a) *FEDERAL COORDINATION AND ENHANCED SUP-*
3 *PORT OF EMERGENCY MEDICAL SERVICES.*—Chapter 4 is
4 *amended by inserting after section 407 the following:*

5 **“§407A. Federal coordination and enhanced support**
6 **of emergency medical services**

7 “(a) *FEDERAL INTERAGENCY COMMITTEE ON EMER-*
8 *GENCY MEDICAL SERVICES.*—

9 “(1) *ESTABLISHMENT.*—*The Secretary of Trans-*
10 *portation and the Secretary of Homeland Security,*
11 *through the Under Secretary for Emergency Pre-*
12 *paredness and Response, shall establish a Federal*
13 *Interagency Committee on Emergency Medical Serv-*
14 *ices. In establishing the Interagency Committee, the*
15 *Secretary of Transportation and the Secretary of*
16 *Homeland Security through the Under Secretary for*
17 *Emergency Preparedness and Response shall consult*
18 *with the Secretary of Health and Human Services.*

19 “(2) *MEMBERSHIP.*—*The Interagency Committee*
20 *shall consist of the following officials, or their des-*
21 *ignees:*

22 “(A) *The Administrator, National Highway*
23 *Traffic Safety Administration.*

24 “(B) *The Director, Preparedness Division,*
25 *Emergency Preparedness and Response Direc-*
26 *torate, Department of Homeland Security.*

1 “(C) *The Administrator, Health Resources*
2 *and Services Administration, Department of*
3 *Health and Human Services.*

4 “(D) *The Director, Centers for Disease Con-*
5 *trol and Prevention, Department of Health and*
6 *Human Services.*

7 “(E) *The Administrator, United States Fire*
8 *Administration, Emergency Preparedness and*
9 *Response Directorate, Department of Homeland*
10 *Security.*

11 “(F) *The Director, Center for Medicare and*
12 *Medicaid Services, Department of Health and*
13 *Human Services.*

14 “(G) *The Undersecretary of Defense for Per-*
15 *sonnel and Readiness.*

16 “(H) *The Director, Indian Health Service,*
17 *Department of Health and Human Services.*

18 “(I) *The Chief, Wireless Telecom Bureau,*
19 *Federal Communications Commission.*

20 “(J) *A representative of any other Federal*
21 *agency identified by the Secretary of Transpor-*
22 *tation or the Secretary of Homeland Security*
23 *through the Under Secretary for Emergency Pre-*
24 *paredness and Response, in consultation with the*
25 *Secretary of Health and Human Services, as*

1 *having a significant role in relation to the pur-*
2 *poses of the Interagency Committee.*

3 “(3) *PURPOSES.*—*The purposes of the Inter-*
4 *agency Committee are as follows:*

5 “(A) *To ensure coordination among the*
6 *Federal agencies involved with State, local, trib-*
7 *al, or regional emergency medical services and*
8 *9–1–1 systems.*

9 “(B) *To identify State, local, tribal, or re-*
10 *gional emergency medical services and 9–1–1*
11 *needs.*

12 “(C) *To recommend new or expanded pro-*
13 *grams, including grant programs, for improving*
14 *State, local, tribal, or regional emergency med-*
15 *ical services and implementing improved emer-*
16 *gency medical services communications tech-*
17 *nologies, including wireless 9–1–1.*

18 “(D) *To identify ways to streamline the*
19 *process through which Federal agencies support*
20 *State, local, tribal or regional emergency medical*
21 *services.*

22 “(E) *To assist State, local, tribal or re-*
23 *gional emergency medical services in setting pri-*
24 *orities based on identified needs.*

1 “(F) To advise, consult, and make rec-
2 ommendations on matters relating to the imple-
3 mentation of the coordinated State emergency
4 medical services programs.

5 “(4) ADMINISTRATION.—The Administrator of
6 the National Highway Traffic Safety Administration,
7 in cooperation with the Director, Preparedness Divi-
8 sion, Emergency Preparedness and Response Direc-
9 torate, Department of Homeland Security, shall pro-
10 vide administrative support to the Interagency Com-
11 mittee, including scheduling meetings, setting agen-
12 das, keeping minutes and records, and producing re-
13 ports.

14 “(5) LEADERSHIP.—The members of the Inter-
15 agency Committee shall select a chairperson of the
16 Committee annually.

17 “(6) MEETINGS.—The Interagency Committee
18 shall meet as frequently as is determined necessary by
19 the chairperson of the Committee.

20 “(7) ANNUAL REPORTS.—The Interagency Com-
21 mittee shall prepare an annual report to Congress on
22 the Committee’s activities, actions, and recommenda-
23 tions.

24 “(b) COORDINATED NATIONWIDE EMERGENCY MED-
25 ICAL SERVICES PROGRAM.—

1 “(1) *PROGRAM REQUIREMENT.*—*The Secretary of*
2 *Transportation, acting through the Administrator of*
3 *the National Highway Traffic Safety Administration,*
4 *shall coordinate with officials of other Federal depart-*
5 *ments and agencies, and may assist State and local*
6 *governments and emergency medical services organi-*
7 *zations (whether or not a firefighter organization),*
8 *private industry, and other interested parties, to en-*
9 *sure the development and implementation of a coordi-*
10 *nated nationwide emergency medical services pro-*
11 *gram that is designed to strengthen transportation*
12 *safety and public health and to implement improved*
13 *emergency medical services communication systems,*
14 *including 9–1–1.*

15 “(2) *COORDINATED STATE EMERGENCY MEDICAL*
16 *SERVICES PROGRAM.*—*Each State shall establish a*
17 *program, to be approved by the Secretary, to coordi-*
18 *nate the emergency medical services and resources de-*
19 *ployed throughout the State, so as to ensure—*

20 “(A) *improved emergency medical services*
21 *communication systems, including 9–1–1;*

22 “(B) *utilization of established best practices*
23 *in system design and operations;*

24 “(C) *implementation of quality assurance*
25 *programs; and*

1 “(D) incorporation of data collection and
2 analysis programs that facilitate system develop-
3 ment and data linkages with other systems and
4 programs useful to emergency medical services.

5 “(3) ADMINISTRATION OF STATE PROGRAMS.—
6 The Secretary may not approve a coordinated State
7 emergency medical services program under this sub-
8 section unless the program—

9 “(A) provides that the Governor of the State
10 is responsible for its administration through a
11 State office of emergency medical services that
12 has adequate powers and is suitably equipped
13 and organized to carry out such program and
14 coordinates such program with the highway safe-
15 ty office of the State; and

16 “(B) authorizes political subdivisions of the
17 State to participate in and receive funds under
18 such program, consistent with a goal of achiev-
19 ing statewide coordination of emergency medical
20 services and 9–1–1 activities.

21 “(4) FUNDING.—

22 “(A) USE OF FUNDS.—Funds authorized to
23 be appropriated to carry out this subsection shall
24 be used to aid the States in conducting coordi-

1 nated emergency medical services and 9–1–1
2 programs as described in paragraph (2).

3 “(B) APPORTIONMENT.—

4 “(i) APPORTIONMENT FORMULA.—The
5 funds shall be apportioned as follows: 75
6 percent in the ratio that the population of
7 each State bears to the total population of
8 all the States, as shown by the latest avail-
9 able Federal census, and 25 percent in the
10 ratio that the public road mileage in each
11 State bears to the total public road mileage
12 in all States. For the purpose of this sub-
13 paragraph, a ‘public road’ means any road
14 under the jurisdiction of and maintained by
15 a public authority and open to public trav-
16 el. Public road mileage as used in this sub-
17 section shall be determined as of the end of
18 the calendar year prior to the year in which
19 the funds are apportioned and shall be cer-
20 tified by the Governor of the State and sub-
21 ject to approval by the Secretary.

22 “(ii) MINIMUM APPORTIONMENT.—The
23 annual apportionment to each State shall
24 not be less than $\frac{1}{2}$ of 1 percent of the total
25 apportionment, except that the appor-
tion-

1 *ment to the Secretary of the Interior on be-*
2 *half of Indian tribes shall not be less than*
3 *$\frac{3}{4}$ of 1 percent of the total apportionment,*
4 *and the apportionments to the Virgin Is-*
5 *lands, Guam, American Samoa, and the*
6 *Commonwealth of the Northern Mariana Is-*
7 *lands shall not be less than $\frac{1}{4}$ of 1 percent*
8 *of the total apportionment.*

9 “(5) *APPLICABILITY OF CHAPTER 1.*—Section
10 402(d) of this title shall apply in the administration
11 of this subsection.

12 “(6) *FEDERAL SHARE.*—The Federal share of the
13 cost of a project or program funded under this sub-
14 section shall be 80 percent.

15 “(7) *APPLICATION IN INDIAN COUNTRY.*—

16 “(A) *USE OF TERMS.*—For the purpose of
17 application of this subsection in Indian country,
18 the terms ‘State’ and ‘Governor of the State’ in-
19 clude the Secretary of the Interior and the term
20 ‘political subdivisions of the State’ includes an
21 Indian tribe.

22 “(B) *INDIAN COUNTRY DEFINED.*—In this
23 subsection, the term ‘Indian country’ means—

24 “(i) all land within the limits of any
25 Indian reservation under the jurisdiction of

1 *the United States, notwithstanding the*
2 *issuance of any patent and including*
3 *rights-of-way running through the reserva-*
4 *tion;*

5 “(ii) *all dependent Indian commu-*
6 *nities within the borders of the United*
7 *States, whether within the original or subse-*
8 *quently acquired territory thereof and*
9 *whether within or without the limits of a*
10 *State; and*

11 “(iii) *all Indian allotments, the Indian*
12 *titles to which have not been extinguished,*
13 *including rights-of-way running through*
14 *such allotments.*

15 “(c) *STATE DEFINED.—In this section, the term ‘State’*
16 *means each of the 50 States, the District of Columbia, Puer-*
17 *to Rico, the Virgin Islands, Guam, American Samoa, the*
18 *Commonwealth of the Northern Mariana Islands, and the*
19 *Secretary of the Interior on behalf of Indian tribes.*

20 “(d) *CONSTRUCTION WITH RESPECT TO DISTRICT OF*
21 *COLUMBIA.—In the administration of this section with re-*
22 *spect to the District of Columbia, a reference in this section*
23 *to the Governor of a State shall refer to the Mayor of the*
24 *District of Columbia.”.*

1 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 2 *chapter 4 is amended by inserting after the item relating*
 3 *to section 407 the following:*

“407A. Federal coordination and enhanced support of emergency medical services.”.

4 **SEC. 4109. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC**
 5 **SAFETY PROGRAMS.**

6 (a) *REPEAL.*—*Section 408 is repealed.*

7 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 8 *chapter 4 is amended by striking the item relating to sec-*
 9 *tion 408.*

10 **SEC. 4110. IMPAIRED DRIVING PROGRAM.**

11 (a) *MAINTENANCE OF EFFORT.*—*Section 410(a)(2) is*
 12 *amended by striking “the Transportation Equity Act for*
 13 *the 21st Century” and inserting “the Highway Safety*
 14 *Grant Program Reauthorization Act of 2004”.*

15 (b) *REVISED GRANT AUTHORITY.*—*Section 410 is*
 16 *amended—*

17 (1) *by striking paragraph (3) of subsection (a)*
 18 *and redesignating paragraph (4) as paragraph (3);*
 19 *and*

20 (2) *by striking subsections (b) through (f) and*
 21 *inserting the following:*

22 “(b) *PROGRAM-RELATED ELIGIBILITY REQUIRE-*
 23 *MENTS.*—*To be eligible for a grant under this section, a*
 24 *State shall—*

1 “(1) carry out each of the programs and activi-
2 ties required under subsection (c);

3 “(2) comply with the additional requirements set
4 forth in subsection (d) with respect to such programs
5 and activities; and

6 “(3) comply with any additional requirements of
7 the Secretary.

8 “(c) *REQUIRED STATE PROGRAMS AND ACTIVITIES.*—
9 For the purpose of subsection (b)(1), a State must meet the
10 requirements of 4 of the following 6 criteria in order to re-
11 ceive a grant under this section:

12 “(1) *CHECK-POINT, SATURATION PATROL PRO-*
13 *GRAM.*—

14 “(A) A State program to conduct of a series
15 of high-visibility, Statewide law enforcement
16 campaigns in which law enforcement personnel
17 monitor for impaired driving, either through use
18 of check-points or saturation patrols, on a non-
19 discriminatory, lawful basis for the purpose of
20 determining whether the operators of the motor
21 vehicles are driving while under the influence of
22 alcohol or controlled substances that meets the re-
23 quirements of subparagraphs (B) and (C).

24 “(B) A program meets the requirements of
25 this subparagraph only if a State organizes the

1 *campaigns in cooperation with related national*
2 *campaigns organized by the National Highway*
3 *Traffic Safety Administration, but this subpara-*
4 *graph does not preclude a State from initiating*
5 *high-visibility, Statewide law enforcement cam-*
6 *paigns independently of the cooperative efforts.*

7 *“(C) A program meets the requirements of*
8 *this subparagraph only if, for each fiscal year, a*
9 *State demonstrates to the Secretary that the*
10 *State and the political subdivisions of the State*
11 *that receive funds under this section have in-*
12 *creased, in the aggregate, the total number of im-*
13 *paired driving law enforcement activities, as de-*
14 *scribed in subparagraph (A) (or any other simi-*
15 *lar activity approved by the Secretary), initiated*
16 *in such State during the preceding fiscal year by*
17 *a factor that the Secretary determines meaning-*
18 *ful for the State over the number of such activi-*
19 *ties initiated in such State during the preceding*
20 *fiscal year, which shall not be less than 5 per-*
21 *cent.*

22 *“(2) PROSECUTION AND ADJUDICATION PRO-*
23 *GRAM.—For grants made during fiscal years after fis-*
24 *cal year 2004, a State prosecution and adjudication*
25 *program under which—*

1 “(A) judges and prosecutors are actively en-
2 couraged to prosecute and adjudicate cases of de-
3 fendants who repeatedly commit impaired driv-
4 ing offenses by reducing the use of State diver-
5 sion programs, or other means that have the ef-
6 fect of avoiding or expunging a permanent
7 record of impaired driving in such cases;

8 “(B) the courts in a majority of the judicial
9 jurisdictions of the State are monitored on the
10 courts’ adjudication of cases of impaired driving
11 offenses; or

12 “(C) annual Statewide outreach is provided
13 for judges and prosecutors on innovative ap-
14 proaches to the prosecution and adjudication of
15 cases of impaired driving offenses that have the
16 potential for significantly improving the pros-
17 ecution and adjudication of such cases.

18 “(3) *IMPAIRED OPERATOR INFORMATION SYS-*
19 *TEM.—*

20 “(A) A State impaired operator informa-
21 tion system that—

22 “(i) tracks drivers who are arrested or
23 convicted for violation of laws prohibiting
24 impaired operation of motor vehicles;

1 “(ii) includes information about each
2 case of an impaired driver beginning at the
3 time of arrest through case disposition, in-
4 cluding information about any trial, plea,
5 plea agreement, conviction or other disposi-
6 tion, sentencing or other imposition of sanc-
7 tions, and substance abuse treatment;

8 “(iii) provides—

9 “(I) accessibility to the informa-
10 tion for law enforcement personnel
11 Statewide and for United States law
12 enforcement personnel; and

13 “(II) linkage for the sharing of the
14 information and of the information in
15 State traffic record systems among ju-
16 risdictions and appropriate agencies,
17 court systems and offices of the States;

18 “(iv) shares information with the Na-
19 tional Highway Traffic Safety Administra-
20 tion for compilation and use for the track-
21 ing of impaired operators of motor vehicles
22 who move from State to State; and

23 “(v) meets the requirements of sub-
24 paragraphs (B), (C), and (D) of this para-
25 graph, as applicable.

1 “(B) A program meets the requirements of
2 this subparagraph only if, during fiscal years
3 2004 and 2005, a State—

4 “(i) assesses the system used by the
5 State for tracking drivers who are arrested
6 or convicted for violation of laws prohib-
7 iting impaired operation of motor vehicles;

8 “(ii) identifies ways to improve the
9 system, as well as to enhance the capability
10 of the system to provide information in co-
11 ordination with impaired operator informa-
12 tion systems of other States; and

13 “(iii) develops a strategic plan that
14 sets forth the actions to be taken and the re-
15 sources necessary to achieve the identified
16 improvements and to enhance the capability
17 for coordination with the systems of other
18 States.

19 “(C) A program meets the requirements of
20 this subparagraph only if, in each of fiscal years
21 2006, 2007, and 2008, a State demonstrates to
22 the Secretary that the State has made substan-
23 tial and meaningful progress in improving the
24 State’s impaired operator information system,

1 *and makes public a report on the progress of the*
2 *information system.*

3 “(D) *A program meets the requirements of*
4 *this subparagraph only if, in fiscal year 2009, a*
5 *State demonstrates to the Secretary that the*
6 *State’s impaired operator information system*
7 *meets the basic standards for such systems as de-*
8 *termined by the Secretary.*

9 “(4) *IMPAIRED DRIVING PERFORMANCE.—The*
10 *percentage of fatally-injured drivers with 0.08 percent*
11 *or greater blood alcohol concentration in the State has*
12 *decreased in each of the 2 most recent calendar years.*

13 “(5) *IMPAIRED DRIVING TASK FORCE.—(A) Es-*
14 *tablishment of an impaired driving task force that in-*
15 *volves all relevant State, tribal, and local agencies re-*
16 *sponsible for reducing alcohol impairment and im-*
17 *paired driving and meets the requirements of sub-*
18 *paragraphs (B), (C), and (D). The purpose of the task*
19 *force is to oversee efforts to reduce impaired driving*
20 *by strengthening applicable laws, regulations, pro-*
21 *grams, and policies, and to coordinate impaired driv-*
22 *ing resources and programs among different jurisdic-*
23 *tions. The impaired driving task force shall include*
24 *State, Tribal, and local law enforcement, motor car-*
25 *rier safety agencies, and State alcohol and drug abuse*

1 *prevention agencies, State and local court systems,*
2 *State drivers licensing agencies, the State highway*
3 *safety office, and State parole and probation agencies.*

4 *“(B) In fiscal year 2004 and fiscal year 2005,*
5 *the State shall establish a statewide impaired driving*
6 *task force to assess the State’s impaired driving sys-*
7 *tem, identify the opportunities for improvements in*
8 *the system, and develop a strategic plan that outlines*
9 *the steps and resources necessary to improve the sys-*
10 *tem and enhance coordination among State and local*
11 *agencies responsible for reducing impaired driving.*

12 *“(C) In each subsequent fiscal year, the State*
13 *demonstrates progress in the implementation of top*
14 *priorities of the strategic plan.*

15 *“(D) The State provides the Secretary a copy of*
16 *the strategic plan developed under subparagraph and*
17 *in subsequent years, a report detailing the progress of*
18 *the strategic plan. The Secretary shall make available*
19 *for public viewing each strategic plan and progress*
20 *report.*

21 *“(6) IMPAIRED DRIVING COURTS.—*

22 *“(A) IN GENERAL.—A program to consoli-*
23 *date and coordinate impaired driving cases into*
24 *courts that specialize in impaired driving cases,*
25 *with the emphasis on tracking and processing of-*

1 *enders of impaired driving laws, (hereinafter re-*
2 *ferred to as DWI courts) that meets the require-*
3 *ments of this paragraph.*

4 “(B) *CHARACTERISTICS.—A DWI Court is*
5 *a distinct function performed by a court system*
6 *for the purpose of changing the behavior of alco-*
7 *hol or drug dependent offenders arrested for driv-*
8 *ing while impaired. A DWI Court can be a dedi-*
9 *cated court with dedicated personnel, including*
10 *judges, prosecutors and probation officers. A*
11 *DWI court may be an existing court system that*
12 *serves the following essential DWI Court func-*
13 *tions:*

14 “(i) *A DWI Court performs an assess-*
15 *ment of high-risk offenders utilizing a team*
16 *headed by the judge and including all*
17 *criminal justice stakeholders (prosecutors,*
18 *defense attorneys, probations officers, law*
19 *enforcement personnel and others) along*
20 *with alcohol/drug treatment professionals.*

21 “(ii) *The DWI Court team recommends*
22 *a specific plea agreement or contract for*
23 *each offender that can include incarceration,*
24 *treatment, and close community su-*
25 *per vision. The agreement maximizes the*

1 *probability of rehabilitation and minimizes*
2 *the likelihood of recidivism.*

3 “(iii) *Compliance with the agreement*
4 *is verified with thorough monitoring and*
5 *frequent alcohol testing. Periodic status*
6 *hearings assess offender progress and allow*
7 *an opportunity for modifying the sentence*
8 *if necessary.*

9 “(C) *ASSESSMENT.—In the first year of op-*
10 *eration, the States shall assess the number of*
11 *court systems in its jurisdiction that are consist-*
12 *ently performing the DWI Court functions.*

13 “(D) *PLAN.—In the second year of oper-*
14 *ation, the State shall develop a strategic plan for*
15 *increasing the number of courts performing the*
16 *DWI function.*

17 “(E) *PROGRESS.—In subsequent years of*
18 *operation, the State shall demonstrate progress*
19 *in increasing the number of DWI Courts and in*
20 *increasing the number of high-risk offenders par-*
21 *ticipating in and successfully completing DWI*
22 *Court agreements.*

23 “(d) *USES OF GRANTS.—Grants made under this sec-*
24 *tion may be used for programs and activities described in*
25 *subsection (c) and to defray the following costs:*

1 “(1) Labor costs, management costs, and equip-
2 ment procurement costs for the high-visibility, State-
3 wide law enforcement campaigns under subsection
4 (c)(1).

5 “(2) The costs of the training of law enforcement
6 personnel and the procurement of technology and
7 equipment, such as and including video equipment
8 and passive alcohol sensors, to counter directly im-
9 paired operation of motor vehicles.

10 “(3) The costs of public awareness, advertising,
11 and educational campaigns that publicize use of so-
12 briety check points or increased law enforcement ef-
13 forts to counter impaired operation of motor vehicles.

14 “(4) The costs of public awareness, advertising,
15 and educational campaigns that target impaired op-
16 eration of motor vehicles by persons under 34 years
17 of age.

18 “(5) The costs of the development and implemen-
19 tation of a State impaired operator information sys-
20 tem described in subsection (c)(3).

21 “(6) The costs of operating programs that im-
22 pound the vehicle of an individual arrested as an im-
23 paired operator of a motor vehicle for not less than
24 12 hours after the operator is arrested.

1 “(e) *ADDITIONAL AUTHORITIES FOR CERTAIN AU-*
2 *THORIZED USES.*—

3 “(1) *COMBINATION OF GRANT PROCEEDS.*—
4 *Grant funds used for a campaign under subsection*
5 *(d)(3) may be combined, or expended in coordination,*
6 *with proceeds of grants under section 402 of this title.*

7 “(2) *COORDINATION OF USES.*—*Grant funds*
8 *used for a campaign under paragraph (3) or (4) of*
9 *subsection (d) may be expended—*

10 “(A) *in coordination with employers,*
11 *schools, entities in the hospitality industry, and*
12 *nonprofit traffic safety groups; and*

13 “(B) *in coordination with sporting events*
14 *and concerts and other entertainment events.*

15 “(f) *FUNDING.*—

16 “(1) *IN GENERAL.*—*Except as provided in para-*
17 *graph (2), grant funding under this section shall be*
18 *allocated among eligible States on the basis of the ap-*
19 *portionment formula that applies for apportionments*
20 *under section 402(c) of this title.*

21 “(2) *HIGH FATALITY-RATE STATES.*—*The*
22 *amount of the grant funds allocated under this sub-*
23 *section to each of the 10 States with the highest im-*
24 *paired driving-related fatality rate for the most recent*
25 *fiscal year for which the data is available preceding*

1 *the fiscal year of the allocation shall be twice the*
2 *amount that, except for this subparagraph, would oth-*
3 *erwise be allocated to the State under paragraph (1).*

4 “(g) *USE OF FUNDS BY HIGH FATALITY-RATE*
5 *STATES.—*

6 “(1) *REQUIRED USES.—At least 1/2 of the*
7 *amounts allocated to States under subsection (f)(2)*
8 *shall be used for the program described in subsection*
9 *(c)(1).*

10 “(2) *REQUIREMENT FOR PLAN.—A State receiv-*
11 *ing an allocation of grant funds under subsection*
12 *(f)(2) shall expend those funds only after consulting*
13 *with the Administrator of the National Highway*
14 *Traffic Safety Administration regarding such expend-*
15 *itures.*

16 “(h) *DEFINITIONS.—In this section:*

17 “(1) *IMPAIRED OPERATOR.—The term ‘impaired*
18 *operator’ means a person who, while operating a*
19 *motor vehicle—*

20 “(A) *has a blood alcohol content of 0.08 per-*
21 *cent or higher; or*

22 “(B) *is under the influence of a controlled*
23 *substance.*

24 “(2) *IMPAIRED DRIVING-RELATED FATALITY*
25 *RATE.—The term ‘impaired driving-related fatality*

1 *rate' means the rate of the fatal accidents that involve*
2 *impaired drivers while operating motor vehicles, as*
3 *calculated in accordance with regulations which the*
4 *Administrator of the National Highway Traffic Safe-*
5 *ty Administration shall prescribe.”.*

6 (c) *NHTSA TO ISSUE REGULATIONS.—Not later than*
7 *12 months after the date of enactment of the Highway Safe-*
8 *ty Grant Program Reauthorization Act of 2004, the Na-*
9 *tional Highway Traffic Safety Administration shall issue*
10 *guidelines to the States specifying the types and formats*
11 *of data that States should collect relating to drivers who*
12 *are arrested or convicted for violation of laws prohibiting*
13 *the impaired operation of motor vehicles.*

14 **SEC. 4111. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
15 **IMPROVEMENTS.**

16 (a) *GRANT PROGRAM AUTHORITY.—Chapter 4 is*
17 *amended by adding at the end the following:*

18 **“§412. State traffic safety information system im-**
19 **provements**

20 *“(a) GRANT AUTHORITY.—Subject to the requirements*
21 *of this section, the Secretary shall make grants of financial*
22 *assistance to eligible States to support the development and*
23 *implementation of effective programs by such States to—*

24 *“(1) improve the timeliness, accuracy, complete-*
25 *ness, uniformity, integration, and accessibility of the*

1 *safety data of the State that is needed to identify pri-*
2 *orities for national, State, and local highway and*
3 *traffic safety programs;*

4 “(2) *evaluate the effectiveness of efforts to make*
5 *such improvements;*

6 “(3) *link the State data systems, including traf-*
7 *fic records, with other data systems within the State,*
8 *such as systems that contain medical, roadway, and*
9 *economic data; and*

10 “(4) *improve the compatibility and interoper-*
11 *ability of the data systems of the State with national*
12 *data systems and data systems of other States and en-*
13 *hance the ability of the Secretary to observe and ana-*
14 *lyze national trends in crash occurrences, rates, out-*
15 *comes, and circumstances.*

16 “(b) *FIRST-YEAR GRANTS.—*

17 “(1) *ELIGIBILITY.—To be eligible for a first-year*
18 *grant under this section in a fiscal year, a State shall*
19 *demonstrate to the satisfaction of the Secretary that*
20 *the State has—*

21 “(A) *established a highway safety data and*
22 *traffic records coordinating committee with a*
23 *multidisciplinary membership that includes,*
24 *among others, managers, collectors, and users of*

1 *traffic records and public health and injury con-*
2 *trol data systems; and*

3 “(B) developed a multiyear highway safety
4 data and traffic records system strategic plan
5 that addresses existing deficiencies in the State’s
6 highway safety data and traffic records system,
7 is approved by the highway safety data and traf-
8 fic records coordinating committee, and—

9 “(i) specifies how existing deficiencies
10 in the State’s highway safety data and traf-
11 fic records system were identified;

12 “(ii) prioritizes, on the basis of the
13 identified highway safety data and traffic
14 records system deficiencies, the highway
15 safety data and traffic records system needs
16 and goals of the State, including the activi-
17 ties under subsection (a);

18 “(iii) identifies performance-based
19 measures by which progress toward those
20 goals will be determined; and

21 “(iv) specifies how the grant funds and
22 any other funds of the State are to be used
23 to address needs and goals identified in the
24 multiyear plan.

1 “(2) *GRANT AMOUNT.*—Subject to subsection
2 (d)(3), the amount of a first-year grant to a State for
3 a fiscal year shall be the higher of—

4 “(A) the amount determined by multi-
5 plying—

6 “(i) the amount appropriated to carry
7 out this section for such fiscal year, by

8 “(ii) the ratio that the funds appor-
9 tioned to the State under section 402 of this
10 title for fiscal year 2003 bears to the funds
11 apportioned to all States under such section
12 for fiscal year 2003; or

13 “(B) \$300,000.

14 “(c) *SUCCESSIVE YEAR GRANTS.*—

15 “(1) *ELIGIBILITY.*—A State shall be eligible for
16 a grant under this subsection in a fiscal year suc-
17 ceeding the first fiscal year in which the State re-
18 ceives a grant under subsection (b) if the State, to the
19 satisfaction of the Secretary—

20 “(A) submits an updated multiyear plan
21 that meets the requirements of subsection
22 (b)(1)(B);

23 “(B) certifies that its highway safety data
24 and traffic records coordinating committee con-

1 *tinues to operate and supports the multiyear*
2 *plan;*

3 “(C) *specifies how the grant funds and any*
4 *other funds of the State are to be used to address*
5 *needs and goals identified in the multiyear plan;*

6 “(D) *demonstrates measurable progress to-*
7 *ward achieving the goals and objectives identi-*
8 *fied in the multiyear plan; and*

9 “(E) *includes a current report on the*
10 *progress in implementing the multiyear plan.*

11 “(2) *GRANT AMOUNT.—Subject to subsection*
12 *(d)(3), the amount of a year grant made to a State*
13 *for a fiscal year under this subsection shall equal the*
14 *higher of—*

15 “(A) *the amount determined by multi-*
16 *plying—*

17 “(i) *the amount appropriated to carry*
18 *out this section for such fiscal year, by*

19 “(ii) *the ratio that the funds appor-*
20 *tioned to the State under section 402 of this*
21 *title for fiscal year 2003 bears to the funds*
22 *apportioned to all States under such section*
23 *for fiscal year 2003; or*

24 “(B) *\$500,000.*

1 “(d) *ADDITIONAL REQUIREMENTS AND LIMITA-*
2 *TIONS.—*

3 “(1) *MODEL DATA ELEMENTS.—The Secretary,*
4 *in consultation with States and other appropriate*
5 *parties, shall determine the model data elements that*
6 *are useful for the observation and analysis of State*
7 *and national trends in occurrences, rates, outcomes,*
8 *and circumstances of motor vehicle traffic accidents.*
9 *In order to be eligible for a grant under this section,*
10 *a State shall submit to the Secretary a certification*
11 *that the State has adopted and uses such model data*
12 *elements, or a certification that the State will use*
13 *grant funds provided under this section toward*
14 *adopting and using the maximum number of such*
15 *model data elements as soon as practicable.*

16 “(2) *DATA ON USE OF ELECTRONIC DEVICES.—*
17 *The model data elements required under paragraph*
18 *(1) shall include data elements, as determined appro-*
19 *priate by the Secretary in consultation with the*
20 *States and with appropriate elements of the law en-*
21 *forcement community, on the impact on traffic safety*
22 *of the use of electronic devices while driving.*

23 “(3) *MAINTENANCE OF EFFORT.—No grant may*
24 *be made to a State under this section in any fiscal*
25 *year unless the State enters into such agreements with*

1 *the Secretary as the Secretary may require to ensure*
 2 *that the State will maintain its aggregate expendi-*
 3 *tures from all other sources for highway safety data*
 4 *programs at or above the average level of such expendi-*
 5 *tures maintained by such State in the 2 fiscal years*
 6 *preceding the date of enactment of the Highway Safe-*
 7 *ty Grant Program Reauthorization Act of 2003.*

8 *“(4) FEDERAL SHARE.—The Federal share of the*
 9 *cost of adopting and implementing in a fiscal year a*
 10 *State program described in subsection (a) may not*
 11 *exceed 80 percent.*

12 *“(5) LIMITATION ON USE OF GRANT PRO-*
 13 *CEEDS.—A State may use the proceeds of a grant re-*
 14 *ceived under this section only to implement the pro-*
 15 *gram described in subsection (a) for which the grant*
 16 *is made.*

17 *“(e) APPLICABILITY OF CHAPTER 1.—Section 402(d)*
 18 *of this title shall apply in the administration of this sec-*
 19 *tion.”.*

20 *(b) CLERICAL AMENDMENT.—The chapter analysis for*
 21 *chapter 4 is amended by adding at the end the following:*

“412. State traffic safety information system improvements.”.

22 **SEC. 4112. NHTSA ACCOUNTABILITY.**

23 *(a) IN GENERAL.—Chapter 4, as amended by section*
 24 *4111, is amended by adding at the end the following:*

1 **“§ 413. Agency accountability**

2 “(a) *TRIENNIAL STATE MANAGEMENT REVIEWS.*—At
3 *least once every 3 years the National Highway Traffic Safe-*
4 *ty Administration shall conduct a review of each State*
5 *highway safety program. The review shall include a man-*
6 *agement evaluation of all grant programs partially or fully*
7 *funded under this title. The Administrator shall provide re-*
8 *view-based recommendations on how each State may im-*
9 *prove the management and oversight of its grant activities*
10 *and may provide a management and oversight plan.*

11 “(b) *RECOMMENDATIONS BEFORE SUBMISSION.*—In
12 *order to provide guidance to State highway safety agencies*
13 *on matters that should be addressed in the State highway*
14 *safety program goals and initiatives as part of its highway*
15 *safety plan before the plan is submitted for review, the Ad-*
16 *ministrator shall provide non-binding data-based rec-*
17 *ommendations to each State at least 90 days before the date*
18 *on which the plan is to be submitted for approval.*

19 “(c) *STATE PROGRAM REVIEW.*—The Administrator
20 *shall—*

21 “(1) *conduct a program improvement review of*
22 *any State that does not make substantial progress*
23 *over a 3-year period in meeting its priority program*
24 *goals; and*

1 “(2) *provide technical assistance and safety pro-*
2 *gram recommendations to the State for any goal not*
3 *achieved.*

4 “(d) *REGIONAL HARMONIZATION.—The Administra-*
5 *tion and the Inspector General of the Department of Trans-*
6 *portation shall undertake a State grant administrative re-*
7 *view of the practices and procedures of the management re-*
8 *views and program reviews conducted by Administration*
9 *regional offices and formulate a report of best practices to*
10 *be completed within 180 days after the date of enactment*
11 *of the Highway Safety Grant Program Reauthorization Act*
12 *of 2004.*

13 “(e) *BEST PRACTICES GUIDELINES.—*

14 “(1) *UNIFORM GUIDELINES.—The Administra-*
15 *tion shall issue uniform management review and pro-*
16 *gram review guidelines based on the report under sub-*
17 *section (d). Each regional office shall use the guide-*
18 *lines in executing its State administrative review du-*
19 *ties.*

20 “(2) *PUBLICATION.—The Administration shall*
21 *make the following documents available via the Inter-*
22 *net upon their completion:*

23 “(A) *The Administration’s management re-*
24 *view and program review guidelines.*

25 “(B) *State highway safety plans.*

1 “(C) *State annual accomplishment reports.*

2 “(D) *The Administration’s State manage-*
3 *ment reviews.*

4 “(E) *The Administration’s State program*
5 *improvement plans.*

6 “(3) *REPORTS TO STATE HIGHWAY SAFETY*
7 *AGENCIES.—The Administrator may not make a*
8 *plan, report, or review available under paragraph (2)*
9 *that is directed to a State highway safety agency*
10 *until after it has been submitted to that agency.*

11 “(f) *GENERAL ACCOUNTING OFFICE REVIEW.—The*
12 *General Accounting Office shall analyze the effectiveness of*
13 *the National Highway Traffic Safety Administration’s*
14 *oversight of traffic safety grants by seeking to determine the*
15 *usefulness of the Administration’s advice to the States re-*
16 *garding grants administration and State activities, the ex-*
17 *tent to which the States incorporate the Administration’s*
18 *recommendation into their highway safety plans and pro-*
19 *grams, and improvements that result in a State’s highway*
20 *safety program that may be attributable to the Administra-*
21 *tion’s recommendations. Based on this analysis, the General*
22 *Accounting Office shall submit a report by not later than*
23 *the end of fiscal year 2008 to the House of Representatives*
24 *Committee on Transportation and Infrastructure and the*

1 *Senate Committee on Commerce, Science, and Transpor-*
 2 *tation.”.*

3 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 4 *for chapter 4, as amended by section 4111, is amended by*
 5 *inserting after the item relating to section 412 the following:*
 “413. *Agency accountability.*”.

6 **PART II—SPECIFIC VEHICLE SAFETY-RELATED**
 7 **RULINGS**

8 **SEC. 4151. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

9 *Except as otherwise specifically provided, whenever in*
 10 *this subpart an amendment is expressed in terms of an*
 11 *amendment to a section or other provision of law, the ref-*
 12 *erence shall be considered to be made to a section or other*
 13 *provision of title 49, United States Code.*

14 **SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.**

15 (a) *IN GENERAL.*—*Subchapter II of chapter 301 is*
 16 *amended by adding at the end the following:*

17 **“§ 30128. Vehicle accident ejection protection**

18 “(a) *IN GENERAL.*—*The Secretary of Transportation*
 19 *shall prescribe a safety standard under this chapter or up-*
 20 *grade existing Federal motor vehicle safety standards to re-*
 21 *duce complete and partial occupant ejection from motor ve-*
 22 *hicles with a gross vehicle weight rating of not more than*
 23 *10,000 pounds that are involved in accidents that present*
 24 *a risk of occupant ejection. In formulating the safety stand-*
 25 *ard, the Secretary shall consider the ejection-mitigation ca-*

1 *pabilities of safety technologies, such as advanced side glaz-*
2 *ing, side curtains, and side impact air bags.*

3 “(b) *DOOR LOCK AND RETENTION STANDARD.—The*
4 *Secretary shall upgrade Federal Motor Vehicle Safety*
5 *Standard No. 206 to require manufacturers of new motor*
6 *vehicles with a gross vehicle weight rating of not more than*
7 *10,000 pounds that are distributed in commerce for sale in*
8 *the United States to make such modifications to door locks,*
9 *door latches, and retention components of doors in such ve-*
10 *hicles as the Secretary determines to be necessary to reduce*
11 *occupant ejection from such vehicles in motor vehicle acci-*
12 *dents.”.*

13 (b) *RULEMAKING DEADLINES.—*

14 (1) *RULEMAKING.—The Secretary of Transpor-*
15 *tation shall issue—*

16 (A) *a notice of a proposed rulemaking*
17 *under section 30128 of title 49, United States*
18 *Code, not later than June 30, 2006; and*

19 (B) *a final rule under that section not later*
20 *than 18 months after the publication of the no-*
21 *tice of proposed rulemaking.*

22 (2) *EFFECTIVE DATE OF REQUIREMENTS.—In*
23 *the final rule, the Secretary shall set forth effective*
24 *dates for the requirements contained in the rule.*

1 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
2 *authorized to be appropriated to the Secretary of Transpor-*
3 *tation \$500,000 for each of fiscal years 2004 and 2005 to*
4 *promulgate rules under section 30128 of title 49, United*
5 *States Code.*

6 (d) *CONFORMING AMENDMENT.*—*The chapter analysis*
7 *for chapter 301 is amended by inserting after the item relat-*
8 *ing to section 30127 the following:*

 “30128. *Vehicle accident ejection protection.*”.

9 **SEC. 4153. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY**
10 **STUDY.**

11 (a) *IN GENERAL.*—*The Administrator of the National*
12 *Highway Traffic Safety Administration shall conduct a*
13 *study of effective methods for reducing the incidence of in-*
14 *jury and death outside of parked passenger motor vehicles*
15 *with a gross vehicle weight rating of not more than 10,000*
16 *pounds attributable to movement of such vehicles. The Ad-*
17 *ministrator shall complete the study within 1 year after*
18 *the date of enactment of this Act and report its findings*
19 *to the Senate Committee on Commerce, Science, and Trans-*
20 *portation and the House of Representatives Committee on*
21 *Energy and Commerce not later than 5 months after the*
22 *date of enactment of this Act.*

23 (b) *SPECIFIC ISSUES TO BE COVERED.*—*The study re-*
24 *quired by subsection (a) shall—*

1 (1) *include an analysis of backover prevention*
2 *technology;*

3 (2) *identify, evaluate, and compare the available*
4 *technologies for detecting people or objects behind a*
5 *motor vehicle with a gross vehicle weight rating of not*
6 *more than 10,000 pounds for their accuracy, effective-*
7 *ness, cost, and feasibility for installation; and*

8 (3) *provide an estimate of cost savings that*
9 *would result from widespread use of backover preven-*
10 *tion devices and technologies in motor vehicles with a*
11 *gross vehicle weight rating of not more than 10,000*
12 *pounds, including savings attributable to the preven-*
13 *tion of—*

14 (A) *injuries and fatalities; and*

15 (B) *damage to bumpers and other motor ve-*
16 *hicle parts and damage to other objects.*

17 **SEC. 4154. VEHICLE BACKOVER DATA COLLECTION.**

18 *In conjunction with the study required in section 4153,*
19 *the National Highway Traffic Safety Administration may*
20 *establish a method to collect and maintain data on the*
21 *number and types of injuries and deaths involving motor*
22 *vehicles with a gross vehicle weight rating of not more than*
23 *10,000 pounds in non-traffic, non-accident incidents to as-*
24 *sist in the analysis required in section 4153 of this Act re-*
25 *garding the inclusion of backover prevention technologies in*

1 *motor vehicles with a gross vehicle weight rating of not more*
2 *than 10,000 pounds.*

3 **SEC. 4155. AGGRESSIVITY AND INCOMPATIBILITY REDUC-**
4 **TION STANDARD.**

5 *(a) IN GENERAL.—Subchapter II of chapter 301, as*
6 *amended by section 4152, is amended by adding at the end*
7 *the following:*

8 **“§ 30129. Vehicle incompatibility and aggressivity re-**
9 **duction standard**

10 *“(a) IN GENERAL.—The Secretary of Transportation*
11 *shall issue motor vehicle safety standards to reduce vehicle*
12 *incompatibility and aggressivity for motor vehicles with a*
13 *gross vehicle weight rating of not more than 10,000 pounds.*
14 *In formulating the standards, the Secretary shall consider*
15 *factors such as bumper height, weight, and any other design*
16 *characteristics necessary to ensure better management of*
17 *crash forces in frontal and side impact crashes among dif-*
18 *ferent types, sizes, and weights of motor vehicles with a*
19 *gross vehicle weight rating of not more than 10,000 pounds*
20 *in order to reduce occupant deaths and injuries.*

21 *“(b) STANDARDS.—The Secretary shall develop a*
22 *standard rating metric to evaluate compatibility and*
23 *aggressivity among motor vehicles with a gross vehicle*
24 *weight rating of not more than 10,000 pounds.*

1 “(c) *PUBLIC INFORMATION.*—*The Secretary shall cre-*
2 *ate a public information program that includes vehicle rat-*
3 *ings based on risks posed by vehicle incompatibility and*
4 *aggressivity to occupants, risks posed by vehicle incompati-*
5 *bility and aggressivity to other motorists, and combined risks*
6 *posed by vehicle incompatibility and aggressivity by vehicle*
7 *make and model.*”.

8 (b) *RULEMAKING DEADLINES.*—

9 (1) *RULEMAKING.*—*The Secretary of Transpor-*
10 *tation shall issue—*

11 (A) *a notice of a proposed rulemaking*
12 *under section 30129 of title 49, United States*
13 *Code, not later than January 31, 2007; and*

14 (B) *a final rule under that section not later*
15 *than 18 months after the publication of the no-*
16 *tice of proposed rulemaking.*

17 (2) *EFFECTIVE DATE OF REQUIREMENTS.*—*In*
18 *the final rule, the Secretary shall set forth effective*
19 *dates for the requirements contained in the rule.*

20 (c) *CONFORMING AMENDMENT.*—*The chapter analysis*
21 *for chapter 301 is amended by inserting after the item relat-*
22 *ing to section 30128 the following:*

“30129. *Vehicle incompatibility and aggressivity reduction standard.*”.

1 **SEC. 4156. IMPROVED CRASHWORTHINESS.**

2 (a) *IMPROVED CRASHWORTHINESS.*—Subchapter II of
3 chapter 301, as amended by section 4155, is amended by
4 adding at the end the following:

5 **“§ 30130. Improved crashworthiness of motor vehicles**

6 “(a) *ROLLOVERS.*—

7 “(1) *IN GENERAL.*—The Secretary of Transpor-
8 tation shall prescribe a motor vehicle safety standard
9 under this chapter for rollover crashworthiness stand-
10 ards for motor vehicles with a gross weight rating of
11 not more than 10,000 pounds. In formulating the
12 safety standard, the Secretary shall consider the pre-
13 scription of a roof strength standard based on dy-
14 namic tests that realistically duplicate the actual
15 forces transmitted to a passenger motor vehicle during
16 an on-roof rollover crash, and shall consider safety
17 technologies and design improvements such as—

18 “(A) *improved seat structure and safety belt*
19 *design, including seat belt pretensioners;*

20 “(B) *side impact head protection airbags;*
21 *and*

22 “(C) *roof injury protection measures.*

23 “(2) *ROLLOVER RESISTANCE STANDARD.*—The
24 Secretary shall prescribe a motor vehicle safety stand-
25 ard under this chapter to improve on the basic design
26 characteristics of motor vehicles with a gross vehicle

1 *weight rating of not more than 10,000 pounds to in-*
2 *crease their resistance to rollover. The Secretary shall*
3 *also consider additional technologies to improve the*
4 *handling of motor vehicles with a gross vehicle weight*
5 *rating of not more than 10,000 pounds and thereby*
6 *reduce the likelihood of vehicle instability and roll-*
7 *overs.*

8 “(3) *STUDY.*—*The Secretary shall conduct a*
9 *study on electronic stability control systems and other*
10 *technologies designed to improve the handling of*
11 *motor vehicles with a gross vehicle weight rating of*
12 *not more than 10,000 pounds and shall report the re-*
13 *sults of that study to the Senate Committee on Com-*
14 *merce, Science, and Transportation and the House of*
15 *Representatives Committee on Transportation and*
16 *Infrastructure by December 31, 2005.*

17 “(b) *FRONTAL IMPACT STANDARDS AND CRASH*
18 *TESTS.*—

19 “(1) *IN GENERAL.*—*The Secretary shall prescribe*
20 *a motor vehicle safety standard under this chapter or*
21 *upgrade existing Federal motor vehicle safety stand-*
22 *ards to improve the protection of occupants in frontal*
23 *impact crashes involving motor vehicles with a gross*
24 *vehicle weight rating of not more than 10,000 pounds.*

1 “(2) *TEST METHODOLOGY.*—*In determining the*
2 *standard under paragraph (1), the Secretary shall—*

3 “(A) *evaluate additional test barriers and*
4 *measurements of occupant head impact and neck*
5 *injuries; and*

6 “(B) *review frontal impact criteria, includ-*
7 *ing consideration of criteria established by the*
8 *Insurance Institute for Highway Safety.*

9 “(c) *SIDE IMPACT STANDARDS AND CRASH TESTS.*—

10 “(1) *IN GENERAL.*—*The Secretary shall prescribe*
11 *a motor vehicle safety standard under this chapter or*
12 *upgrade existing Federal motor vehicle safety stand-*
13 *ards to improve the protection afforded to occupants*
14 *in side impact crashes involving motor vehicles with*
15 *a gross vehicle weight rating of not more than 10,000*
16 *pounds.*

17 “(2) *TEST METHODOLOGY.*—*In prescribing the*
18 *standard under paragraph (1), the Secretary shall—*

19 “(A) *evaluate additional test barriers and*
20 *measurements of occupant head impact and neck*
21 *injuries;*

22 “(C) *consider the need for additional and*
23 *new crash test dummies that represent the full*
24 *range of occupant sizes and weights; and*

1 “(D) review side impact criteria, including
2 consideration of criteria established by the Insur-
3 ance Institute for Highway Safety.”.

4 (b) *RULEMAKING DEADLINES.*—

5 (1) *RULEMAKING.*—*The Secretary of Transpor-*
6 *tation shall—*

7 (A) *issue a notice of a proposed rulemaking*
8 *under section 30130 of title 49, United States*
9 *Code, not later than June 30, 2006; and*

10 (B) *issue a final rule not later than 18*
11 *months after publication of the notice of pro-*
12 *posed rulemaking.*

13 (2) *EFFECTIVE DATE OF REQUIREMENTS.*—*In*
14 *the final rule, the Secretary shall set forth effective*
15 *dates for the requirements contained in this rule.*

16 (c) *CONFORMING AMENDMENT.*—*The chapter analysis*
17 *for chapter 301 is amended by inserting after the item relat-*
18 *ing to section 30129 the following:*

 “30130. *Improved crashworthiness of passenger motor vehicles.*”.

19 **SEC. 4157. 15-PASSENGER VANS.**

20 (a) *IN GENERAL.*—*The Secretary of Transportation*
21 *shall initiate a rulemaking and issue a final regulation not*
22 *later than September 31, 2005, to include all 15-passenger*
23 *vans with a gross vehicle weight rating of not more than*
24 *10,000 pounds in the National Highway Traffic Safety Ad-*
25 *ministration’s dynamic rollover testing program and re-*

1 *quire such vans to comply with all existing and prospective*
2 *Federal Motor Vehicle Safety Standards for occupant pro-*
3 *tection and vehicle crash avoidance that are relevant to such*
4 *vehicles.*

5 **(b) NEW CAR ASSESSMENT PROGRAM.**—*The Secretary*
6 *shall initiate a rulemaking and issue a final regulation not*
7 *later than September 31, 2005, to include all 15-passenger*
8 *vans with a gross vehicle weight of not more than 10,000*
9 *pounds in the Administration’s New Car Assessment Pro-*
10 *gram rollover resistance program.*

11 **(c) VEHICLE CONTROL TECHNOLOGY FOR 15-PAS-**
12 **SENGER VANS.**—*The National Highway Traffic Safety Ad-*
13 *ministration shall evaluate and test the potential of techno-*
14 *logical systems, particularly electronic stability control sys-*
15 *tems and rollover warning systems, to assist drivers in*
16 *maintaining control of 15-passenger vans with a gross vehi-*
17 *cle weight rating of not more than 10,000 pounds.*

18 **(d) CERTAIN SPECIALIZED VEHICLES EXCLUDED.**—*In*
19 *this section, the term “15-passenger van” does not include*
20 *an ambulance, tow truck, or other vehicle designed pri-*
21 *marily for the transportation of property or special purpose*
22 *equipment.*

1 **SEC. 4158. ADDITIONAL SAFETY PERFORMANCE CRITERIA**
2 **FOR TIRES.**

3 (a) *STRENGTH AND ROAD HAZARD PROTECTION.*—
4 *The Secretary of Transportation shall issue a final rule to*
5 *upgrade Federal Motor Vehicle Safety Standard No. 139 to*
6 *include strength and road hazard protection safety perform-*
7 *ance criteria for light vehicle tires, which are criteria that*
8 *were not addressed in the June 2003 final rule mandated*
9 *by the Transportation Recall Enhancement, Accountability,*
10 *and Documentation Act of 2000.*

11 (b) *RESISTANCE TO BEAD UNSEATING AND AGING.*—
12 *The Secretary of Transportation shall issue a final rule to*
13 *upgrade Federal Motor Vehicle Safety Standard No. 139 to*
14 *include resistance to bead unseating and aging safety per-*
15 *formance criteria for passenger motor vehicle tires, which*
16 *are criteria that were not addressed in the June, 2003, final*
17 *rule mandated by the Transportation Recall Enhancement,*
18 *Accountability, and Documentation Act of 2000.*

19 (c) *RULEMAKING DEADLINES.*—*The Secretary of*
20 *Transportation shall—*

21 (1) *issue a notice of proposed rulemaking under*
22 *subsection (a) not later than June 30, 2005, and*
23 *under subsection(b) not later than December 31, 2005;*
24 *and*

25 (2) *issue a final rule relating to subsection (a)*
26 *not later than 18 months after June 30, 2005, and a*

1 *final rule under subsection (b) not later than 18*
2 *months after December 31, 2005.*

3 (d) *TECHNOLOGY USE AND REPORT.*—*The Secretary*
4 *shall reconsider the use of shearography analysis, on a sam-*
5 *pling basis, for regulatory compliance and the Adminis-*
6 *trator of the National Highway Traffic Safety Administra-*
7 *tion shall report to the Senate Committee on Commerce,*
8 *Science, and Transportation and the House of Representa-*
9 *tives Committee on Transportation and Infrastructure on*
10 *the most cost effective methods of using such technology*
11 *within 2 years after the date of enactment of the Highway*
12 *Safety Grant Program Reauthorization Act of 2004.*

13 **SEC. 4159. SAFETY BELT USE REMINDERS.**

14 (a) *NOTICE OF PROPOSED RULES TO ENCOURAGE*
15 *MORE SEAT BELT USE.*—*Not later than 12 months after*
16 *the date of enactment of this Act, the Secretary of Transpor-*
17 *tation shall issue a Notice of Proposed Rulemaking to*
18 *amend the Federal Motor Vehicle Safety Standard No. 208*
19 *for motor vehicles with a gross vehicle weight rating of not*
20 *more than 10,000 pounds to encourage increased seat belt*
21 *usage by drivers and passengers. The proposed rulemaking*
22 *shall take into account the potential safety benefits and pub-*
23 *lic acceptability of alternative means to encourage increased*
24 *seat belt usage, including intermittent or continuous audi-*
25 *ble or visual reminders when a driver or passenger is not*

1 *wearing a seat belt, features to prevent operation of conven-*
2 *ience or entertainment features of the vehicle when a driver*
3 *or passenger is not wearing a seat belt, and shall consider*
4 *technology, including but not limited to technology identi-*
5 *fied by the National Academy of Sciences in its study of*
6 *the potential benefits of seat belt usage reminder tech-*
7 *nologies.*

8 (b) *FINAL RULE.*—*Not later than 24 months after the*
9 *date of enactment of this Act, the Secretary shall issue the*
10 *final rule required by subsection (a).*

11 (c) *BUZZER LAW.*—

12 (1) *IN GENERAL.*—*Section 30124 is amended—*

13 (A) *by striking “not” the first place it ap-*
14 *pears; and*

15 (B) *by striking “except” and inserting “in-*
16 *cluding”.*

17 (2) *CONFORMING AMENDMENT.*—*Section 30122*
18 *is amended by striking subsection (d).*

19 **SEC. 4160. MISSED DEADLINES REPORTS.**

20 (a) *IN GENERAL.*—*If the Secretary of Transportation*
21 *fails to meet any rulemaking deadline established in this*
22 *subtitle, the Secretary shall transmit a report to the Senate*
23 *Committee on Commerce, Science, and Transportation and*
24 *the House of Representatives Committee on Transportation*

1 *and Infrastructure within 90 days after missing the dead-*
2 *line—*

3 (1) *explaining why the Secretary failed to meet*
4 *the deadline; and*

5 (2) *setting forth a date by which the Secretary*
6 *anticipates that the rulemaking will be made.*

7 (b) *CONSIDERATION OF EFFECTS.—The Secretary of*
8 *Transportation shall consider and report the potential con-*
9 *sequences, in terms of the number of deaths and the number*
10 *and severity of injuries, that may result from not meeting*
11 *any such deadline.*

12 **SEC. 4161. GRANTS FOR IMPROVING CHILD PASSENGER**
13 **SAFETY PROGRAMS.**

14 (a) *IN GENERAL.—Chapter 4 of title 23, United States*
15 *Code, as amended by section 4112 of this Act, is amended*
16 *by adding at the end the following:*

17 **“§414. Booster seat incentive grants**

18 “(a) *IN GENERAL.—The Secretary of Transportation*
19 *shall make a grant under this section to any eligible State.*

20 “(b) *ELIGIBILITY REQUIREMENTS.—*

21 “(1) *IN GENERAL.—The Secretary shall make a*
22 *grant to each State that, as determined by the Sec-*
23 *retary, enacts or has enacted, and is enforcing a law*
24 *requiring that children riding in passenger motor ve-*
25 *hicles (as defined in section 405(d)(4)) who are too*

1 *large to be secured in a child safety seat be secured*
2 *in a child restraint (as defined in section 7(1) of*
3 *Anton's Law (49 U.S.C. 30127 note)) that meets re-*
4 *quirements prescribed by the Secretary under section*
5 *3 of Anton's Law.*

6 *“(2) YEAR IN WHICH FIRST ELIGIBLE.—*

7 *“(A) EARLY QUALIFICATION.—A State that*
8 *has enacted a law described in paragraph (1)*
9 *that is in effect before October 1, 2005, is first*
10 *eligible to receive a grant under subsection (a) in*
11 *fiscal year 2006.*

12 *“(B) SUBSEQUENT QUALIFICATION.—A*
13 *State that enacts a law described in paragraph*
14 *(1) that takes effect after September 30, 2005, is*
15 *first eligible to receive a grant under subsection*
16 *(a) in the first fiscal year beginning after the*
17 *date on which the law is enacted.*

18 *“(3) CONTINUING ELIGIBILITY.—A State that is*
19 *eligible under paragraph (1) to receive a grant may*
20 *receive a grant during each fiscal year listed in sub-*
21 *section (f) in which it is eligible.*

22 *“(4) MAXIMUM NUMBER OF GRANTS.—A State*
23 *may not receive more than 4 grants under this sec-*
24 *tion.*

1 “(c) *GRANT AMOUNT.*—Amounts available for grants
2 under this section in any fiscal year shall be apportioned
3 among the eligible States on the basis of population.

4 “(d) *USE OF GRANT AMOUNTS.*—

5 “(1) *IN GENERAL.*—Of the amounts received by
6 a State under this section for any fiscal year—

7 “(A) 50 percent shall be used for the en-
8 forcement of, and education to promote public
9 awareness of, State child passenger protection
10 laws; and

11 “(B) 50 percent shall be used to fund pro-
12 grams that purchase and distribute child booster
13 seats, child safety seats, and other appropriate
14 passenger motor vehicle child restraints to indi-
15 gent families without charge.

16 “(2) *REPORT.*—Within 60 days after the State
17 fiscal year in which a State receives a grant under
18 this section, the State shall transmit to the Secretary
19 a report documenting the manner in which grant
20 amounts were obligated or expended and identifying
21 the specific programs supports by grant funds. The
22 report shall be in a form prescribed by the Secretary
23 and may be combined with other State grant report-
24 ing requirements under this chapter.

1 “(e) *DEFINITION OF CHILD SAFETY SEAT.*—*The term*
 2 *‘child safety seat’ means any device (except safety belts (as*
 3 *such term is defined in section 405(d)(5)), designed for use*
 4 *in a motor vehicle (as such term is defined in section*
 5 *405(d)(1)) to restrain, seat, or position a child who weighs*
 6 *50 pounds or less.*

7 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 8 *authorized to be appropriated to the Secretary of Transpor-*
 9 *tation, out of the Highway Trust Fund—*

10 “(1) \$18,000,000 for fiscal year 2006;

11 “(2) \$20,000,000 for fiscal year 2007;

12 “(3) \$25,000,000 for fiscal year 2008; and

13 “(4) \$30,000,000 for fiscal year 2009.”.

14 “(b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 15 *chapter 4 of title 23, United States Code, is amended by*
 16 *inserting after the item relating to section 411 the following:*

 “414. *Booster seat incentive grants.*”.

17 **SEC. 4162. AUTHORIZATION OF APPROPRIATIONS.**

18 *There are authorized to be appropriated to the Sec-*
 19 *retary of Transportation to carry out this subtitle and*
 20 *chapter 301 of title 49, United States Code—*

21 (1) \$130,500,000 for fiscal year 2004;

22 (2) \$133,500,000 for fiscal year 2005;

23 (3) \$133,600,000 for fiscal year 2006;

24 (4) \$134,500,000 for fiscal year 2007;

25 (5) \$138,000,000 for fiscal year 2008; and

1 (6) \$141,000,000 for fiscal year 2009.

2 **PART III—MISCELLANEOUS PROVISIONS**

3 **SEC. 4171. DRIVER LICENSING AND EDUCATION.**

4 (a) NATIONAL OFFICE OF DRIVER LICENSING AND
5 EDUCATION.—Section 105 of title 49, United States Code,
6 is amended by adding at the end the following new sub-
7 section:

8 “(f)(1) There is a National Office of Driver Licensing
9 and Education in the National Highway Traffic Safety Ad-
10 ministration.

11 “(2) The head of the National Office of Driver Licens-
12 ing and Education is the Director.

13 “(3) The functions of the National Office of Driver Li-
14 censing and Education are as follows:

15 “(A) To provide States with services for coordi-
16 nating the motor vehicle driver training and licensing
17 programs of the States.

18 “(B) To develop and make available to the States
19 a recommended comprehensive model for motor vehicle
20 driver education and graduated licensing that incor-
21 porates the best practices in driver education and
22 graduated licensing, including best practices with re-
23 spect to—

24 “(i) vehicle handling and crash avoidance;

25 “(ii) driver behavior and risk reduction;

1 “(iii) roadway features and associated safe-
2 ty implications;

3 “(iv) roadway interactions involving all
4 types of vehicles and road users, such as car-
5 truck and pedestrian-car interactions;

6 “(v) parent education; and

7 “(vi) other issues identified by the Director.

8 “(C) To carry out such research (pursuant to co-
9 operative agreements or otherwise) and undertake
10 such other activities as the Director determines appro-
11 priate to develop and, on an ongoing basis, improve
12 the recommended comprehensive model.

13 “(D) To provide States with technical assistance
14 for the implementation and deployment of the motor
15 vehicle driver education and licensing comprehensive
16 model recommended under subparagraph (B).

17 “(E) To develop and recommend to the States
18 methods for harmonizing the presentation of motor
19 vehicle driver education and licensing with the re-
20 quirements of multistage graduated licensing systems,
21 including systems described in section 410(c)(4) of
22 title 23, and to demonstrate and evaluate the effective-
23 ness of those methods in selected States.

24 “(F) To assist States with the development and
25 implementation of programs to certify driver edu-

1 *cation instructors, including the development and im-*
2 *plementation of proposed uniform certification stand-*
3 *ards.*

4 *“(G) To provide States with financial assistance*
5 *under section 412 of title 23 for—*

6 *“(i) the implementation of the motor vehicle*
7 *driver education and licensing comprehensive*
8 *model recommended under subparagraph (B);*

9 *“(ii) the establishment or improved admin-*
10 *istration of multistage graduated licensing sys-*
11 *tems; and*

12 *“(iii) the support of other improvements in*
13 *motor vehicle driver education and licensing pro-*
14 *grams.*

15 *“(H) To evaluate the effectiveness of the com-*
16 *prehensive model recommended under subparagraph*
17 *(B).*

18 *“(I) To examine different options for delivering*
19 *driver education in the States.*

20 *“(J) To perform such other functions relating to*
21 *motor vehicle driver education or licensing as the Sec-*
22 *retary may require.*

23 *“(4) Not later than 42 months after the date of the*
24 *enactment of the Safe, Accountable, Flexible, and Efficient*
25 *Transportation Equity Act of 2004, the Director shall sub-*

1 *mit to Congress a report on the progress made by the Na-*
2 *tional Office of Driver Licensing and Education with re-*
3 *spect to the functions under paragraph (3).”.*

4 (b) *GRANT PROGRAM FOR IMPROVEMENT OF DRIVER*
5 *EDUCATION AND LICENSING.—*

6 (1) *AUTHORITY.—*

7 (A) *IN GENERAL.—Chapter 4 of title 23,*
8 *United States Code, is amended by adding at the*
9 *end the following new section:*

10 **“SEC. 412. DRIVER EDUCATION AND LICENSING.**

11 *“(a) AUTHORITY.—*

12 *“(1) IN GENERAL.—The Secretary shall carry*
13 *out a program to provide States, by grant, with fi-*
14 *nancial assistance to support the improvement of*
15 *motor vehicle driver education programs and the es-*
16 *tablishment and improved administration of grad-*
17 *uated licensing systems, including systems described*
18 *in section 410(c)(4) of this title.*

19 *“(2) ADMINISTRATIVE OFFICE.—The Secretary*
20 *shall administer the program under this section*
21 *through the Director of the National Office of Driver*
22 *Licensing and Education.*

23 *“(b) ELIGIBILITY REQUIREMENTS.—*

24 *“(1) REGULATIONS.—The Secretary shall pre-*
25 *scribe in regulations the eligibility requirements, ap-*

1 *plication and approval procedures and standards,*
2 *and authorized uses of grant proceeds for the grant*
3 *program under this section. The regulations shall, at*
4 *a minimum, authorize use of grant proceeds for the*
5 *following activities:*

6 *“(A) Quality assurance testing, including*
7 *follow-up testing to monitor the effectiveness of—*

8 *“(i) driver licensing and education*
9 *programs;*

10 *“(ii) instructor certification testing;*
11 *and*

12 *“(iii) other statistical research de-*
13 *signed to evaluate the performance of driver*
14 *education and licensing programs.*

15 *“(B) Improvement of motor vehicle driver*
16 *education curricula.*

17 *“(C) Training of instructors for motor vehi-*
18 *cle driver education programs.*

19 *“(D) Testing and evaluation of motor vehi-*
20 *cle driver performance.*

21 *“(E) Public education and outreach regard-*
22 *ing motor vehicle driver education and licensing.*

23 *“(F) Improvements with respect to State*
24 *graduated licensing programs, as well as related*
25 *enforcement activities.*

1 “(2) *CONSULTATION REQUIREMENT.*—*In pre-*
2 *scribing the regulations, the Secretary shall consult*
3 *with the following:*

4 “(A) *The Administrator of the National*
5 *Highway Traffic Safety Administration.*

6 “(B) *The heads of such other departments*
7 *and agencies of the United States as the Sec-*
8 *retary considers appropriate on the basis of rel-*
9 *evant interests or expertise.*

10 “(C) *Appropriate officials of the govern-*
11 *ments of States and political subdivisions of*
12 *States.*

13 “(D) *Other relevant experts.*

14 “(c) *MAXIMUM AMOUNT OF GRANT.*—*The maximum*
15 *amount of a grant of financial assistance for a program,*
16 *project, or activity under this section may not exceed 75*
17 *percent of the total cost of such program, project, or activ-*
18 *ity.”.*

19 “(B) *CLERICAL AMENDMENT.*—*The table of*
20 *sections at the beginning of such chapter is*
21 *amended by adding at the end the following new*
22 *item:*

 “412. *Driver education and licensing.*”.

23 “(2) *TIME FOR PROMULGATION OF REGULA-*
24 *TIONS.*—*The Secretary of Transportation shall pro-*
25 *mulgate the regulations under section 412(b) of title*

1 23, *United States Code* (as added by paragraph (1)),
2 not later than October 1, 2005.

3 (c) *GRANT PROGRAM FOR PUBLIC AWARENESS OF*
4 *ORGAN DONATION THROUGH DRIVER LICENSING PRO-*
5 *GRAMS.—*

6 (1) *AUTHORITY.—*

7 (A) *IN GENERAL.—*Chapter 4 of title 23,
8 *United States Code* (as amended by subsection
9 (b)), is further amended by adding at the end the
10 following new section:

11 **“SEC. 413. ORGAN DONATION THROUGH DRIVER LICENS-**
12 **ING.**

13 “(a) *AUTHORITY.—*

14 “(1) *IN GENERAL.—*The Secretary shall carry
15 out a program to provide eligible recipients, by grant,
16 with financial assistance to carry out campaigns to
17 increase public awareness of, and training on, au-
18 thority and procedures under State law to provide for
19 the donation of organs through a declaration recorded
20 on a motor vehicle driver license.

21 “(2) *ADMINISTRATIVE OFFICE.—*The Secretary
22 shall administer the program under this section
23 through the Director of the National Office of Driver
24 *Licensing and Education.*

25 “(b) *ELIGIBILITY REQUIREMENTS.—*

1 “(1) *REGULATIONS.*—*The Secretary shall pre-*
 2 *scribe in regulations the eligibility requirements, ap-*
 3 *plication and approval procedures and standards,*
 4 *and authorized uses of grant proceeds for the grant*
 5 *program under this section.*

6 “(2) *CONSULTATION REQUIREMENT.*—*In pre-*
 7 *scribing the regulations, the Secretary shall consult*
 8 *with the following:*

9 “(A) *The Administrator of the National*
 10 *Highway Traffic Safety Administration.*

11 “(B) *The heads of such other departments*
 12 *and agencies of the United States as the Sec-*
 13 *retary considers appropriate on the basis of rel-*
 14 *evant interests or expertise.*

15 “(C) *Appropriate officials of the govern-*
 16 *ments of States and political subdivisions of*
 17 *States.*

18 “(D) *Representatives of private sector orga-*
 19 *nizations recognized for relevant expertise.”.*

20 “(B) *CLERICAL AMENDMENT.*—*The table of*
 21 *sections at the beginning of such chapter is*
 22 *amended by adding at the end the following new*
 23 *item:*

“413. *Organ donation through driver licensing.”.*

24 “(2) *TIME FOR PROMULGATION OF REGULA-*
 25 *TIONS.*—*The Secretary of Transportation shall pro-*

1 *mulgate the regulations under section 413(b) of title*
2 *23, United States Code (as added by paragraph (1)),*
3 *not later than October 1, 2005.*

4 *(d) STUDY OF NATIONAL DRIVER EDUCATION STAND-*
5 *ARDS.—*

6 *(1) REQUIREMENT FOR STUDY.—The Secretary*
7 *of Transportation shall carry out a study to deter-*
8 *mine whether the establishment and imposition of na-*
9 *tionwide minimum standards of motor vehicle driver*
10 *education would improve national highway traffic*
11 *safety or the performance and legal compliance of*
12 *novice drivers.*

13 *(2) TIME FOR COMPLETION OF STUDY.—The Sec-*
14 *retary shall complete the study not later than 2 years*
15 *after the date of the enactment of this Act.*

16 *(3) REPORT.—The Secretary shall publish a re-*
17 *port on the results of the study under this section not*
18 *later than 2 years after the study is completed.*

19 *(e) AUTHORIZATION OF APPROPRIATIONS.—Of the*
20 *amounts available to carry out section 403 of title 23,*
21 *United States Code, for each of the fiscal years 2005 through*
22 *2010, \$5,000,000 may be made available for each such fiscal*
23 *year to carry out sections 412 and 413 of title 23, United*
24 *States Code (as added by subsections (b) and (c), respec-*
25 *tively).*

1 **SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION**
2 **DISCLOSURE ACT.**

3 (a) *SAFETY LABELING REQUIREMENT.*—Section 3 of
4 *the Automobile Information Disclosure Act (15 U.S.C.*
5 *1232)* is amended by adding at the end the following:

6 “(g) if one or more safety ratings for such automobile
7 have been assigned and formally published or released by
8 the National Highway Traffic Safety Administration under
9 the New Car Assessment Program, information about safety
10 ratings that—

11 “(1) includes a graphic depiction of the number
12 of stars that corresponds to each such assigned safety
13 rating displayed in a clearly differentiated fashion
14 from stars indicating the unattained safety rating;

15 “(2) refers to frontal impact crash tests, side im-
16 pact crash tests, and rollover resistance tests (whether
17 or not such automobile has been assigned a safety rat-
18 ing for such tests), including statements that—

19 “(A) frontal impact crash test ratings are
20 based on risk of head and chest injury;

21 “(B) side impact crash test ratings are
22 based on risk of chest injury; and

23 “(C) rollover resistance ratings are based on
24 risk of rollover in the event of a single auto-
25 mobile crash;

1 “(3) is presented in a legible, visible, and promi-
2 nent fashion and covers at least—

3 “(A) 8 percent of the total area of the label;

4 or

5 “(B) an area with a minimum length of 4

6 $\frac{1}{2}$ inches and a minimum height of $3\frac{1}{2}$ inches;

7 and

8 “(4) contains a heading titled ‘Government Safe-
9 ty Information’ and a disclaimer including the fol-
10 lowing text: ‘Star ratings for frontal impact crash
11 tests can only be compared to other vehicles in the
12 same weight class and those plus or minus 250
13 pounds. Side impact and rollover ratings can be com-
14 pared across all vehicle weights and classes. For more
15 information on safety and testing, please visit [http://](http://www.nhtsa.dot.gov)
16 /www.nhtsa.dot.gov’; and

17 “(h) if an automobile has not been tested by the Na-
18 tional Highway Traffic Safety Administration under the
19 New Car Assessment Program, or safety ratings for such
20 automobile have not been assigned in one or more rating
21 categories, a statement to that effect.”.

22 (b) REGULATIONS.—Not later than January 1, 2005,
23 the Secretary of Transportation shall prescribe regulations
24 to implement the labeling requirements under subsections

1 *(g) and (h) of section 3 of such Act (as added by subsection*
2 *(a)).*

3 *(c) CONFORMING AND TECHNICAL AMENDMENTS.—*

4 *Section 3 of such Act is further amended—*

5 *(1) in subsection (e), by striking “and” after the*
6 *semicolon; and*

7 *(2) in subsection (f)—*

8 *(A) by adding “and” at the end of para-*
9 *graph (3); and*

10 *(B) by striking the period at the end and*
11 *inserting a semicolon.*

12 *(d) APPLICABILITY.—The labeling requirements under*
13 *subsections (g) and (h) of section 3 of such Act (as added*
14 *by subsection (a)), and the regulations prescribed under*
15 *subsection (b), shall apply to new automobiles delivered on*
16 *or after—*

17 *(1) September 1, 2005, if the regulations under*
18 *subsection (b) are prescribed not later than August*
19 *31, 2004; or*

20 *(2) September 1, 2006, if the regulations under*
21 *subsection (b) are prescribed after August 31, 2004.*

22 **SEC. 4173. CHILD SAFETY.**

23 *(a) INCORPORATION OF CHILD DUMMIES IN SAFETY*
24 *TESTS.—*

1 (1) *RULEMAKING REQUIRED.*—Not later than 2
2 years after the date of the enactment of this Act, the
3 Administrator of the National Highway Traffic Safe-
4 ty Administration shall conduct a rulemaking to in-
5 crease utilization of child dummies, including Hy-
6 brid-III child dummies, in motor vehicle safety tests,
7 including crash tests, conducted by the Administra-
8 tion.

9 (2) *CRITERIA.*—In conducting the rulemaking
10 under subsection (a), the Administrator shall select
11 motor vehicle safety tests in which the inclusion of
12 child dummies will lead to—

13 (A) increased understanding of crash dy-
14 namics with respect to children; and

15 (B) measurably improved child safety.

16 (3) *REPORT.*—Not later than one year after the
17 date of the enactment of this Act, the Secretary of
18 Transportation shall publish a report regarding the
19 implementation of this section.

20 (b) *CHILD SAFETY IN ROLLOVER CRASHES.*—

21 (1) *CONSUMER INFORMATION PROGRAM.*—Not
22 later than 2 years after the date of the enactment of
23 this Act, the Secretary of Transportation shall imple-
24 ment a consumer information program relating to
25 child safety in rollover crashes. The Secretary shall

1 *make information related to the program available to*
2 *the public following completion of the program.*

3 (2) *CHILD DUMMY DEVELOPMENT.*—

4 (A) *IN GENERAL.*—*The Administrator of the*
5 *National Highway Traffic Safety Administra-*
6 *tion shall initiate the development of a biofidelic*
7 *child crash test dummy capable of measuring in-*
8 *jury forces in a simulated rollover crash.*

9 (B) *REPORTS.*—*The Secretary shall submit*
10 *to Congress a report on progress related to such*
11 *development—*

12 (i) *not later than 1 year after the date*
13 *of the enactment of this Act; and*

14 (ii) *not later than 3 years after the*
15 *date of the enactment of this Act.*

16 (c) *REPORT ON ENHANCED VEHICLE SAFETY TECH-*
17 *NOLOGIES.*—*Not later than 2 years after the date of the en-*
18 *actment of this Act, the Secretary of Transportation shall*
19 *submit to Congress a report that describes, evaluates, and*
20 *determines the relative effectiveness of—*

21 (1) *currently available and emerging tech-*
22 *nologies, including auto-reverse functions and child-*
23 *safe window switches, that are designed to prevent*
24 *and reduce the number of injuries and deaths to chil-*
25 *dren left unattended inside parked motor vehicles, in-*

1 *cluding injuries and deaths that result from*
2 *hyperthermia or are related to power windows or*
3 *power sunroofs; and*

4 *(2) currently available and emerging technologies*
5 *that are designed to improve the performance of safety*
6 *belts with respect to the safety of occupants aged be-*
7 *tween 4 and 8 years old.*

8 *(d) COMPLETION OF RULEMAKING REGARDING POWER*
9 *WINDOWS.—Not later than 180 days after the date of the*
10 *enactment of this Act, the Secretary of Transportation*
11 *shall—*

12 *(1) complete the rulemaking initiated by the Na-*
13 *tional Highway Traffic Safety Administration that is*
14 *ongoing on the date of the enactment of this Act and*
15 *relates to a requirement that window switches be de-*
16 *signed to reduce the accidental closing by children of*
17 *power windows; and*

18 *(2) issue performance-based regulations to take*
19 *effect not later than September 1, 2006, requiring that*
20 *window switches or related technologies be designed to*
21 *prevent the accidental closing by children of power*
22 *windows.*

23 *(e) DATABASE ON INJURIES AND DEATHS IN NON-*
24 *TRAFFIC, NONCRASH EVENTS.—*

1 (1) *IN GENERAL.*—*The Secretary of Transpor-*
2 *tation shall establish a new database of, and collect*
3 *data regarding, injuries and deaths in nontraffic,*
4 *noncrash events involving motor vehicles. The data-*
5 *base shall include information regarding—*

6 (A) *the number, types, and proximate*
7 *causes of injuries and deaths resulting from such*
8 *events;*

9 (B) *the characteristics of motor vehicles in-*
10 *volved in such events;*

11 (C) *the characteristics of the motor vehicle*
12 *operators and victims involved in such events;*
13 *and*

14 (D) *the presence or absence in motor vehi-*
15 *cles involved in such events of advanced tech-*
16 *nologies designed to prevent such injuries and*
17 *deaths.*

18 (2) *RULEMAKING.*—*The Secretary shall conduct*
19 *a rulemaking regarding how to structure and compile*
20 *the database.*

21 (3) *AVAILABILITY.*—*The Secretary shall make the*
22 *database available to the public.*

23 **SEC. 4174. SAFE INTERSECTIONS.**

24 (a) *IN GENERAL.*—*Chapter 2 of title 18, United States*
25 *Code, is amended by adding at the end the following:*

1 **“§ 39. Traffic signal preemption transmitters**

2 “(a) *OFFENSES.*—

3 “(1) *SALE.*—A person who provides for sale to
4 unauthorized users a traffic signal preemption trans-
5 mitter in or affecting interstate or foreign commerce
6 shall be fined not more than \$10,000, imprisoned not
7 more than 1 year, or both.

8 “(2) *POSSESSION.*—A person who is an unau-
9 thorized user in possession of a traffic signal preemp-
10 tion transmitter in or affecting interstate or foreign
11 commerce shall be fined not more than \$10,000, im-
12 prisoned not more than 6 months, or both.

13 “(b) *DEFINITIONS.*—In this section, the following defi-
14 nitions apply:

15 “(1) *TRAFFIC SIGNAL PREEMPTION TRANS-*
16 *MITTER.*—The term ‘traffic signal preemption trans-
17 mitter’ means any device or mechanism that can
18 change a traffic signal’s phase.

19 “(2) *UNAUTHORIZED USER.*—The term ‘unau-
20 thorized user’ means a user of a traffic signal pre-
21 emptation transmitter who is not a government ap-
22 proved user.”.

23 (b) *CHAPTER ANALYSIS.*—The chapter analysis for
24 chapter 2 of title 18, United States Code, is amended by
25 adding at the end the following:

“39. Traffic signal preemption transmitters.”.

1 **SEC. 4175. STUDY ON INCREASED SPEED LIMITS.**

2 (a) *STUDY.*—

3 (1) *IN GENERAL.*—Not later than 2 years after
4 the date of enactment of this Act, the Secretary shall
5 conduct a study to examine the effects of increased
6 speed limits enacted by States after 1995.

7 (2) *REQUIREMENTS.*—The study shall collect em-
8 pirical data regarding—

9 (A) increases or decreases in driving speeds
10 on Interstate highways since 1995;

11 (B) correlations between changes in driving
12 speeds and accident, injury, and fatality rates;

13 (C) correlations between posted speed limits
14 and observed driving speeds;

15 (D) the overall impact on motor vehicle
16 safety resulting from the repeal of the national
17 maximum speed limit in 1995; and

18 (E) such other matters as the Secretary de-
19 termines to be appropriate.

20 (b) *REPORT.*—Not later than 1 year after the date of
21 completion of the study under subsection (a), the Secretary
22 shall submit to Congress a report that describes the results
23 of the study.

1 ***Subtitle B—Motor Carrier Safety***
2 ***and Unified Carrier Registration***

3 ***PART I—ADMINISTRATIVE MATTERS***

4 ***SEC. 4201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED***
5 ***STATES CODE.***

6 ***(a) SHORT TITLE.***—*This subtitle may be cited as the*
7 ***“Motor Carrier Safety Reauthorization Act of 2004”.***

8 ***(b) AMENDMENT OF TITLE 49, UNITED STATES***
9 ***CODE.***—*Except as otherwise specifically provided, whenever*
10 ***in this subtitle an amendment is expressed in terms of an***
11 ***amendment to a section or other provision of law, the ref-***
12 ***erence shall be considered to be made to a section or other***
13 ***provision of title 49, United States Code.***

14 ***SEC. 4202. REQUIRED COMPLETION OF OVERDUE REPORTS,***
15 ***STUDIES, AND RULEMAKINGS.***

16 ***(a) REQUIREMENT FOR COMPLETION.***—*By no later*
17 ***than 36 months after the date of enactment of this Act, the***
18 ***Secretary of Transportation shall complete all reports, stud-***
19 ***ies, and rulemaking proceedings to issue regulations which***
20 ***Congress directed the Secretary to complete in previous laws***
21 ***and which are not yet completed, including the following:***

22 ***(1) Commercial Vehicle Driver Biometric Identi-***
23 ***fier, section 9105, Truck and Bus Safety and Regu-***
24 ***latory Reform Act of 1988.***

1 (2) *General Transportation of HAZMAT, section*
2 *8(b), Hazardous Materials Transportation Uniform*
3 *Safety Act of 1990.*

4 (3) *Nationally Uniform System of Permits for*
5 *Interstate Motor Carrier Transport of HAZMAT, sec-*
6 *tion 22, Hazardous Materials Transportation Uni-*
7 *form Safety Act of 1990.*

8 (4) *Training for Entry-Level Drivers of Com-*
9 *mercial Motor Vehicles, section 4007 (a), Intermodal*
10 *Surface Transportation Efficiency Act of 1991.*

11 (5) *Minimum Training Requirements for Opera-*
12 *tors and for Training Instructors of Multiple Trailer*
13 *Combination Vehicles, section 4007(b)(2), Intermodal*
14 *Surface Transportation Efficiency Act of 1991.*

15 (6) *Railroad-Highway Grade Crossing Safety,*
16 *section 112, Hazardous Materials Transportation Au-*
17 *thorization Act of 1994.*

18 (7) *Safety Performance History of New Drivers,*
19 *section 114, Hazardous Materials Transportation Au-*
20 *thorization Act of 1994.*

21 (8) *Motor Carrier Replacement Information and*
22 *Registration System, section 103, ICC Termination*
23 *Act of 1995.*

24 (9) *General Jurisdiction Over Freight Forwarder*
25 *Service, section 13531, ICC Termination Act of 1995.*

1 (10) *Waivers, Exemptions, and Pilot Programs,*
2 *section 4007, Transportation Equity Act for the*
3 *Twenty-First Century.*

4 (11) *Safety Performance History of New Drivers,*
5 *section 4014, Transportation Equity Act for the*
6 *Twenty-First Century.*

7 (12) *Performance-based CDL Testing, section*
8 *4019, Transportation Equity Act for the Twenty-*
9 *First Century.*

10 (13) *Improved Flow of Driver History Pilot Pro-*
11 *gram, section 4022, Transportation Equity Act for*
12 *the Twenty-First Century.*

13 (14) *Employee Protections, section 4023, Trans-*
14 *portation Equity Act for the Twenty-First Century.*

15 (15) *Improved Interstate School Bus Safety, sec-*
16 *tion 4024, Transportation Equity Act for the Twenty-*
17 *First Century.*

18 (16) *Federal Motor Carrier Safety Administra-*
19 *tion 2010 Strategy, section 104, Motor Carrier Safety*
20 *Improvement Act of 1999.*

21 (17) *New Motor Carrier Entrant Requirements,*
22 *section 210, Motor Carrier Safety Improvement Act of*
23 *1999.*

1 (18) *Certified Motor Carrier Safety Auditors,*
2 *section 211, Motor Carrier Safety Improvement Act of*
3 *1999.*

4 (19) *Medical Certificate, section 215, Motor Car-*
5 *rier Safety Improvement Act of 1999.*

6 (20) *Report on Any Pilots Undertaken to De-*
7 *velop Innovative Methods of Improving Motor Carrier*
8 *Compliance with Traffic Laws, section 220, Motor*
9 *Carrier Safety Improvement Act of 1999.*

10 (21) *Status Report on the Implementation of*
11 *Electronic Transmission of Data State-to-State on*
12 *Convictions for All Motor Vehicle Control Law Viola-*
13 *tions for CDL Holders, section 221, Motor Carrier*
14 *Safety Improvement Act of 1999.*

15 (22) *Assessment of Civil Penalties, section 222,*
16 *Motor Carrier Safety Improvement Act of 1999.*

17 (23) *Truck Crash Causation Study, section 224,*
18 *Motor Carrier Safety Improvement Act of 1999.*

19 (24) *Drug Test Results Study, section 226, Motor*
20 *Carrier Safety Improvement Act of 1999.*

21 (b) *FINAL RULE REQUIRED.*—*Unless specifically per-*
22 *mitted by law, rulemaking proceedings shall be considered*
23 *completed for purposes of this section only when the Sec-*
24 *retary has issued a final rule and the docket for the rule-*
25 *making proceeding is closed.*

1 (c) *SCHEDULE FOR COMPLETION.*—No fewer than one-
2 *third of the reports, studies, and rulemaking proceedings*
3 *in subsection (a) shall be completed every 12 months after*
4 *the date of enactment of this Act. The Inspector General*
5 *of the Department of Transportation shall make an annual*
6 *determination as to whether this schedule has been met.*

7 (d) *FAILURE TO COMPLY.*—If the Secretary fails to
8 *complete the required number of reports, studies, and rule-*
9 *making proceedings according to the schedule set forth in*
10 *subsection (c) during any fiscal year, the Secretary shall*
11 *allocate to the States \$3,000,000 from the amount author-*
12 *ized by section 31104(i)(1) of title 49, United States Code,*
13 *for administrative expenses of the Federal Motor Carrier*
14 *Safety Administration to conduct additional compliance re-*
15 *views under section 31102 of that title instead of obligating*
16 *or expending such amount for those administrative ex-*
17 *penses.*

18 (e) *AMENDMENTS TO THE LISTED REPORTS, STUDIES,*
19 *AND RULEMAKING PROCEEDINGS.*—In addition to com-
20 *pleting the reports, studies and rulemaking proceedings list-*
21 *ed in subsection (c), the Secretary shall—*

22 (1) *amend the Interim Final Rule addressing*
23 *New Motor Carrier Entrant Requirements to require*
24 *that a safety audit be immediately converted to a*
25 *compliance review and appropriate enforcement ac-*

1 *tions be taken if the safety audit discloses acute safety*
2 *violations by the new entrant; and*

3 *(2) eliminate a proposed provision in the rule-*
4 *making proceeding addressing Commercial Van Oper-*
5 *ations Transporting Nine to Fifteen Passengers which*
6 *exempts commercial van operations that operate with-*
7 *in a 75-mile radius.*

8 *(f) COMPLETION OF NEW RULEMAKING PRO-*
9 *CEEDINGS.—Nothing in this section delays or changes the*
10 *deadlines specified for new reports, studies, or rulemaking*
11 *mandates contained in this title.*

12 *(g) REPORT OF OTHER AGENCY ACTIONS.—Within 12*
13 *months after the date of enactment of this Act, the Secretary*
14 *shall submit to the Senate Committee on Commerce,*
15 *Science, and Transportation and to the House Committee*
16 *on Transportation and Infrastructure a report on the status*
17 *of the following projects:*

18 *(1) Rescinding the current regulation which pro-*
19 *hibits truck and bus drivers from viewing television*
20 *and monitor screens while operating commercial vehi-*
21 *cles.*

22 *(2) Incorporating Out-Of-Service Criteria regu-*
23 *lations enforced by the Federal Motor Carrier Safety*
24 *Administration.*

1 (3) *Revision of the safety fitness rating system of*
2 *motor carriers.*

3 (4) *Amendment of Federal Motor Carrier Safety*
4 *Administration rules of practice for conducting motor*
5 *carrier administrative proceedings, investigations,*
6 *disqualifications, and for issuing penalties.*

7 (5) *Requiring commercial drivers to have a suffi-*
8 *cient functional speaking and reading comprehension*
9 *of the English language.*

10 (6) *Inspection, repair and maintenance of inter-*
11 *modal container chassis and trailers.*

12 **SEC. 4203. CONTRACT AUTHORITY.**

13 *Authorizations from the Highway Trust Fund (other*
14 *than the Mass Transit Account) to carry out this subtitle*
15 *shall be available for obligation on the date of their appor-*
16 *tionment or allocation or on October 1 of the fiscal year*
17 *for which they are authorized, whichever occurs first. Ap-*
18 *proval by the Secretary of a grant with funds made avail-*
19 *able under this title imposes upon the United States Gov-*
20 *ernment a contractual obligation for payment of the Gov-*
21 *ernment's share of costs incurred in carrying out the objec-*
22 *tives of the grant.*

1 **PART II—MOTOR CARRIER SAFETY**

2 **SEC. 4221. MINIMUM GUARANTEE.**

3 *There are authorized to be appropriated from the*
4 *Highway Trust Fund (other than the Mass Transit Ac-*
5 *count) not less than 1.21 percent of the total amounts made*
6 *available in any fiscal year from the Highway Trust Fund*
7 *for purposes of this part.*

8 **SEC. 4222. AUTHORIZATION OF APPROPRIATIONS.**

9 *(a) ADMINISTRATIVE EXPENSES.—Section 31104 is*
10 *amended by adding at the end the following:*

11 “(i) *ADMINISTRATIVE EXPENSES.—*

12 “(1) *There are authorized to be appropriated*
13 *from the Highway Trust Fund (other than the Mass*
14 *Transit Account) for the Secretary of Transportation*
15 *to pay administrative expenses of the Federal Motor*
16 *Carrier Safety Administration—*

17 “(A) *\$202,900,000 for fiscal year 2004;*

18 “(B) *\$206,200,000 for fiscal year 2005;*

19 “(C) *\$211,400,000 for fiscal year 2006;*

20 “(D) *\$217,500,000 for fiscal year 2007;*

21 “(E) *\$222,600,000 for fiscal year 2008; and*

22 “(F) *\$228,500,000 for fiscal year 2009.*

23 “(2) *The funds authorized by this subsection*
24 *shall be used for personnel costs; administrative infra-*
25 *structure; rent; information technology; programs for*
26 *research and technology, information management,*

1 *regulatory development (including a medical review*
2 *board and rules for medical examiners), performance*
3 *and registration information system management,*
4 *and outreach and education; other operating expenses*
5 *and similar matters; and such other expenses as may*
6 *from time to time become necessary to implement*
7 *statutory mandates not funded from other sources.*

8 *“(3) From the funds authorized by this section,*
9 *the Secretary shall ensure that compliance reviews are*
10 *completed on the motor carriers that have dem-*
11 *onstrated through performance data that they pose the*
12 *highest safety risk. At a minimum, compliance re-*
13 *views shall be conducted within 6 months after when-*
14 *ever a carrier is rated as category A or B.*

15 *“(4) The amounts made available under this sec-*
16 *tion shall remain available until expended.*

17 *“(5) Of the funds authorized by paragraph (1),*
18 *\$6,750,000 in each of fiscal years 2004 through 2009*
19 *shall be used to carry out the medical program under*
20 *section 31149.”.*

21 *(b) AMENDMENT TO APPORTIONMENT PROVISION OF*
22 *TITLE 23.—Section 104(a) of title 23, United States Code,*
23 *is amended—*

24 *(1) by striking “exceed—” and so much of sub-*
25 *paragraph (A) as precedes clause (i) and inserting*

1 *“exceed 1¹/₆ percent of all sums so made available, as*
2 *the Secretary determines necessary—”;*

3 *(2) by redesignating clause (i) and (ii) of sub-*
4 *paragraph (A) as subparagraphs (A) and (B), and*
5 *indenting such clauses, as so redesignated, 2 em*
6 *spaces; and*

7 *(3) by striking “system; and” in subparagraph*
8 *(B) as so redesignated, and all that follows through*
9 *“research.” and inserting “system.”.*

10 *(c) GRANT PROGRAMS.—There are authorized to be ap-*
11 *propriated from the Highway Trust Fund (other than the*
12 *Mass Transit Account) for the following Federal Motor Car-*
13 *rier Safety Administration programs:*

14 *(1) Border enforcement grants under section*
15 *31107 of title 49, United States Code—*

16 *(A) \$32,000,000 for fiscal year 2004;*

17 *(B) \$33,000,000 for fiscal year 2005;*

18 *(C) \$33,000,000 for fiscal year 2006;*

19 *(D) \$34,000,000 for fiscal year 2007;*

20 *(E) \$35,000,000 for fiscal year 2008; and*

21 *(F) \$36,000,000 for fiscal year 2009.*

22 *(2) Performance and registration information*
23 *system management grant program under 31109 of*
24 *title 49, United States Code—*

25 *(A) \$4,000,000 for fiscal year 2004;*

1 (B) \$4,000,000 for fiscal year 2005;

2 (C) \$4,000,000 for fiscal year 2006;

3 (D) \$4,000,000 for fiscal year 2007;

4 (E) \$4,000,000 for fiscal year 2008; and

5 (F) \$4,000,000 for fiscal year 2009.

6 (3) *Commercial driver's license and driver im-*
7 *provement program grants under section 31318 of*
8 *title 49, United States Code—*

9 (A) \$22,000,000 for fiscal year 2004;

10 (B) \$22,000,000 for fiscal year 2005;

11 (C) \$23,000,000 for fiscal year 2006;

12 (D) \$23,000,000 for fiscal year 2007;

13 (E) \$24,000,000 for fiscal year 2008; and

14 (F) \$25,000,000 for fiscal year 2009.

15 (4) *Deployment of the Commercial Vehicle Infor-*
16 *mations Systems and Networks established under sec-*
17 *tion 4241 of this title, \$25,000,000 for each of fiscal*
18 *years 2004 through 2009.*

19 (d) *MOTOR CARRIER SAFETY ACCOUNT.—Funds made*
20 *available under subsection (c) shall be administered in the*
21 *account established in the Treasury entitled “Motor Carrier*
22 *Safety 69–8055–0–7–401”.*

23 (e) *PERIOD OF AVAILABILITY.—The amounts made*
24 *available under subsection (c) of this section shall remain*
25 *available until expended.*

1 **SEC. 4223. MOTOR CARRIER SAFETY GRANTS.**

2 (a) *MOTOR CARRIER SAFETY ASSISTANCE PRO-*
3 *GRAM.—*

4 (1) *Section 31102 is amended—*

5 (A) *by striking “activities by fiscal year*
6 *2000;” in subsection (b)(1)(A) and inserting “ac-*
7 *tivities for commercial motor vehicles of pas-*
8 *sengers and freight;”;*

9 (B) *by striking “years before December 18,*
10 *1991;” in subsection (b)(1)(E) and inserting*
11 *“years”;*

12 (C) *by striking “and” after the semicolon in*
13 *subsection (b)(1)(S);*

14 (D) *by striking “personnel.” in subsection*
15 *(b)(1)(T) and inserting “personnel;”;*

16 (E) *adding at the end of subsection (b)(1)*
17 *the following:*

18 “(U) *ensures that inspections of motor carriers of*
19 *passengers are conducted at stations, terminals, bor-*
20 *der crossings, or maintenance facilities, except in the*
21 *case of an imminent or obvious safety hazard;*

22 “(V) *provides that the State will include in the*
23 *training manual for the licensing examination to*
24 *drive a non-commercial motor vehicle and a commer-*
25 *cial motor vehicle, information on best practices for*
26 *driving safely in the vicinity of commercial motor ve-*

1 *hicles and in the vicinity of non-commercial vehicles,*
2 *respectively; and*

3 *“(W) provides that the State will enforce the reg-*
4 *istration requirements of section 13902 by suspending*
5 *the operation of any vehicle discovered to be operating*
6 *without registration or beyond the scope of its reg-*
7 *istration.”; and*

8 *(F) by striking subsection (c) and inserting*
9 *the following:*

10 *“(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—*
11 *A State may use amounts received under a grant under*
12 *subsection (a) of this section for the following activities:*

13 *“(1) If the activities are carried out in conjunc-*
14 *tion with an appropriate inspection of the commer-*
15 *cial motor vehicle to enforce Government or State*
16 *commercial motor vehicle safety regulations—*

17 *“(A) enforcement of commercial motor vehi-*
18 *cle size and weight limitations at locations other*
19 *than fixed weight facilities, at specific locations*
20 *such as steep grades or mountainous terrains*
21 *where the weight of a commercial motor vehicle*
22 *can significantly affect the safe operation of the*
23 *vehicle, or at ports where intermodal shipping*
24 *containers enter and leave the United States;*
25 *and*

1 “(B) detection of the unlawful presence of a
2 controlled substance (as defined under section
3 102 of the Comprehensive Drug Abuse Prevention
4 and Control Act of 1970 (21 U.S.C. 802)) in a
5 commercial motor vehicle or on the person of any
6 occupant (including the operator) of the vehicle.

7 “(2) Documented enforcement of State traffic
8 laws and regulations designed to promote the safe op-
9 eration of commercial motor vehicles, including docu-
10 mented enforcement of such laws and regulations
11 against non-commercial motor vehicles when nec-
12 essary to promote the safe operation of commercial
13 motor vehicles.”.

14 (2) Section 31103(b) is amended—

15 (A) by inserting “(1)” after “ACTIVITIES.—
16 ”; and

17 (B) by adding at the end the following:

18 “(2) NEW ENTRANT MOTOR CARRIER AUDIT
19 FUNDS.—From the amounts designated under section
20 31104(f)(4), the Secretary may allocate new entrant
21 motor carrier audit funds to States and local govern-
22 ments without requiring a matching contribution
23 from such States or local governments.”.

24 (3) Section 31104(a) is amended to read as fol-
25 lows:

1 “(a) *IN GENERAL.*—*There are authorized to be appro-*
2 *priated from the Highway Trust Fund (other than the Mass*
3 *Transit Account) to carry out section 31102:*

4 “(1) *Not more than \$186,100,000 for fiscal year*
5 *2004.*

6 “(2) *Not more than \$189,800,000 for fiscal year*
7 *2005.*

8 “(3) *Not more than \$193,600,000 for fiscal year*
9 *2006.*

10 “(4) *Not more than \$197,500,000 for fiscal year*
11 *2007.*

12 “(5) *Not more than \$201,400,000 for fiscal year*
13 *2008.*

14 “(6) *Not more than \$205,500,000 for fiscal year*
15 *2009.”.*

16 (4) *Section 31104(f) is amended by striking*
17 *paragraph (2) and inserting the following:*

18 “(2) *HIGH-PRIORITY ACTIVITIES.*—*The Secretary*
19 *may designate up to 5 percent of amounts available*
20 *for allocation under paragraph (1) for States, local*
21 *governments, and organizations representing govern-*
22 *ment agencies or officials for carrying out high pri-*
23 *ority activities and projects that improve commercial*
24 *motor vehicle safety and compliance with commercial*
25 *motor vehicle safety regulations, including activities*

1 *and projects that are national in scope, increase pub-*
2 *lic awareness and education, or demonstrate new*
3 *technologies. The amounts designated under this*
4 *paragraph shall be allocated by the Secretary to State*
5 *agencies, local governments, and organizations rep-*
6 *resenting government agencies or officials that use*
7 *and train qualified officers and employees in coordi-*
8 *nation with State motor vehicle safety agencies. At*
9 *least 80 percent of the amounts designated under this*
10 *paragraph shall be awarded to State agencies and*
11 *local government agencies.*

12 *“(3) SAFETY-PERFORMANCE INCENTIVE PRO-*
13 *GRAMS.—The Secretary may designate up to 10 per-*
14 *cent of the amounts available for allocation under*
15 *paragraph (1) for safety performance incentive pro-*
16 *grams for States. The Secretary shall establish safety*
17 *performance criteria to be used to distribute incentive*
18 *program funds. Such criteria shall include, at a min-*
19 *imum, reduction in the number and rate of fatal acci-*
20 *dents involving commercial motor vehicles. Alloca-*
21 *tions under this paragraph do not require a matching*
22 *contribution from a State.*

23 *“(4) NEW ENTRANT AUDITS.—The Secretary*
24 *shall designate up to \$29,000,000 of the amounts*
25 *available for allocation under paragraph (1) for au-*

1 *audits of new entrant motor carriers conducted pursu-*
2 *ant to 31144(f). The Secretary may withhold such*
3 *funds from a State or local government that is unable*
4 *to use government employees to conduct new entrant*
5 *motor carrier audits, and may instead utilize the*
6 *funds to conduct audits in those jurisdictions.”.*

7 *(b) GRANTS TO STATES FOR BORDER ENFORCE-*
8 *MENT.—Section 31107 is amended to read as follows:*

9 **“§31107. Border enforcement grants**

10 *“(a) GENERAL AUTHORITY.—From the funds author-*
11 *ized by section 4222(c)(1) of the Motor Carrier Safety Reau-*
12 *thorization Act of 2004, the Secretary may make a grant*
13 *in a fiscal year to a State that shares a border with another*
14 *country for carrying out border commercial motor vehicle*
15 *safety programs and related enforcement activities and*
16 *projects.*

17 *“(b) MAINTENANCE OF EXPENDITURES.—The Sec-*
18 *retary may make a grant to a State under this section only*
19 *if the State agrees that the total expenditure of amounts*
20 *of the State and political subdivisions of the State, exclusive*
21 *of United States Government amounts, for carrying out bor-*
22 *der commercial motor vehicle safety programs and related*
23 *enforcement activities and projects will be maintained at*
24 *a level at least equal to the average level of that expenditure*

1 *by the State and political subdivisions of the State for the*
2 *last 2 State or Federal fiscal years before October 1, 2003.”.*

3 (c) *GRANTS TO STATES FOR COMMERCIAL DRIVER’S*
4 *LICENSE IMPROVEMENTS.—Chapter 313 is amended by*
5 *adding at the end the following:*

6 **“§31318. Grants for commercial driver’s license pro-**
7 **gram improvements**

8 “(a) *GENERAL AUTHORITY.—From the funds author-*
9 *ized by section 4222(c)(3) of the Motor Carrier Safety Reau-*
10 *thorization Act of 2004, the Secretary may make a grant*
11 *to a State, except as otherwise provided in subsection (e),*
12 *in a fiscal year to improve its implementation of the com-*
13 *mercial driver’s license program, providing the State is in*
14 *substantial compliance with the requirements of section*
15 *31311 and this section. The Secretary shall establish cri-*
16 *teria for the distribution of grants and notify the States*
17 *annually of such criteria.*

18 “(b) *CONDITIONS.—Except as otherwise provided in*
19 *subsection (e), a State may use a grant under this section*
20 *only for expenses directly related to its commercial driver’s*
21 *license program, including, but not limited to, computer*
22 *hardware and software, publications, testing, personnel,*
23 *training, and quality control. The grant may not be used*
24 *to rent, lease, or buy land or buildings. The Secretary shall*
25 *give priority to grants that will be used to achieve compli-*

1 *ance with the requirements of the Motor Carrier Safety Im-*
2 *provement Act of 1999. The Secretary may allocate the*
3 *funds appropriated for such grants in a fiscal year among*
4 *the eligible States whose applications for grants have been*
5 *approved, under criteria established by the Secretary.*

6 “(c) *MAINTENANCE OF EXPENDITURES.—Except as*
7 *otherwise provided in subsection (e), the Secretary may*
8 *make a grant to a State under this section only if the State*
9 *agrees that the total expenditure of amounts of the State*
10 *and political subdivisions of the State, exclusive of United*
11 *States Government amounts, for the operation of the com-*
12 *mercial driver’s license program will be maintained at a*
13 *level at least equal to the average level of that expenditure*
14 *by the State and political subdivisions of the State for the*
15 *last 2 fiscal years before October 1, 2003.*

16 “(d) *GOVERNMENT SHARE.—Except as otherwise pro-*
17 *vided in subsection (e), the Secretary shall reimburse a*
18 *State, from a grant made under this section, an amount*
19 *that is not more than 80 percent of the costs incurred by*
20 *the State in a fiscal year in implementing the commercial*
21 *driver’s license improvements described in subsection (b).*
22 *In determining those costs, the Secretary shall include in-*
23 *kind contributions by the State.*

24 “(e) *HIGH-PRIORITY ACTIVITIES.—*

1 “(1) *The Secretary may make a grant to a State*
2 *agency, local government, or organization rep-*
3 *resenting government agencies or officials for the full*
4 *cost of research, development, demonstration projects,*
5 *public education, or other special activities and*
6 *projects relating to commercial driver licensing and*
7 *motor vehicle safety that are of benefit to all jurisdic-*
8 *tions or designed to address national safety concerns*
9 *and circumstances.*

10 “(2) *The Secretary may designate up to 10 per-*
11 *cent of the amounts made available under section*
12 *4222(c)(3) of the Motor Carrier Safety Reauthoriza-*
13 *tion Act of 2004 in a fiscal year for high-priority ac-*
14 *tivities under subsection (e)(1).*

15 “(f) *EMERGING ISSUES.—The Secretary may des-*
16 *ignate up to 10 percent of the amounts made available*
17 *under section 4222(c)(3) of the Motor Carrier Safety Reau-*
18 *thorization Act of 2004 in a fiscal year for allocation to*
19 *a State agency, local government, or other person at the*
20 *discretion of the Secretary to address emerging issues relat-*
21 *ing to commercial driver’s license improvements.*

22 “(g) *APPORTIONMENT.—Except as otherwise provided*
23 *in subsections (e) and (f), all amounts available in a fiscal*
24 *year to carry out this section shall be apportioned to States*
25 *according to a formula prescribed by the Secretary.*

1 “(h) *DEDUCTION FOR ADMINISTRATIVE EXPENSES.*—
2 *On October 1 of each fiscal year or as soon after that date*
3 *as practicable, the Secretary may deduct, from amounts*
4 *made available under section 4222(c)(3) of the Motor Car-*
5 *rier Safety Reauthorization Act of 2004 for that fiscal year,*
6 *up to 0.75 percent of those amounts for administrative ex-*
7 *penses incurred in carrying out this section in that fiscal*
8 *year.”.*

9 (d) *NONCOMPLIANCE WITH CDL REQUIREMENTS.*—
10 *Section 31314 is amended by striking subsections (a) and*
11 *(b) and inserting the following:*

12 “(a) *FIRST FISCAL YEAR.*—*The Secretary of Trans-*
13 *portation shall withhold up to 5 percent of the amount re-*
14 *quired to be apportioned to a State under section 104(b)(1),*
15 *(3), and (4) of title 23 on the first day of the fiscal year*
16 *after the first fiscal year beginning after September 30,*
17 *1992, throughout which the State does not comply substan-*
18 *tially with a requirement of section 31311(a) of this title.*

19 “(b) *SECOND FISCAL YEAR.*—*The Secretary shall*
20 *withhold up to 10 percent of the amount required to be ap-*
21 *portioned to a State under section 104(b)(1), (3), and (4)*
22 *of title 23 on the first day of each fiscal year after the second*
23 *fiscal year beginning after September 30, 1992, throughout*
24 *which the State does not comply substantially with a re-*
25 *quirement of section 31311(a) of this title.”.*

1 (e) *CONFORMING AMENDMENTS.—(1) The chapter*
 2 *analysis for chapter 311 is amended—*

3 (A) *by striking the item relating to Subchapter*
 4 *I, and inserting the following:*

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”;

5 *and*

6 (B) *by striking the item relating to section*
 7 *31107, and inserting the following:*

“31107. *Border enforcement grants.*”.

8 (2) *Subchapter I of chapter 311 is amended by striking*
 9 *the subchapter heading and inserting the following:*

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”

10 (3) *The chapter analysis for chapter 313 is amended*
 11 *by inserting the following after the item relating to section*
 12 *31317:*

“31318. *Grants for commercial driver’s license program improvements.*”.

13 **SEC. 4224. CDL WORKING GROUP.**

14 (a) *IN GENERAL.—The Secretary of Transportation*
 15 *shall convene a working group to study and address current*
 16 *impediments and foreseeable challenges to the commercial*
 17 *driver’s license program’s effectiveness and measures needed*
 18 *to realize the full safety potential of the commercial driver’s*
 19 *license program. The working group shall address such*
 20 *issues as State enforcement practices, operational proce-*
 21 *dures to detect and deter fraud, needed improvements for*
 22 *seamless information sharing between States, effective meth-*

1 *ods for accurately sharing electronic data between States,*
2 *updated technology, and timely notification from judicial*
3 *bodies concerning traffic and criminal convictions of com-*
4 *mercial driver's license holders.*

5 (b) *MEMBERSHIP.*—*Members of the working group*
6 *should include State motor vehicle administrators, organi-*
7 *zations representing government agencies or officials, mem-*
8 *bers of the Judicial Conference, representatives of the truck-*
9 *ing industry, representatives of labor organizations, safety*
10 *advocates, and other significant stakeholders.*

11 (c) *REPORT.*—*Within 2 years after the date of enact-*
12 *ment of this Act, the Secretary, on behalf of the working*
13 *group, shall complete a report of the working group's find-*
14 *ings and recommendations for legislative, regulatory, and*
15 *enforcement changes to improve the commercial driver's li-*
16 *cense program. The Secretary shall promptly transmit the*
17 *report to the Senate Committee on Commerce, Science, and*
18 *Transportation and the House of Representatives Com-*
19 *mittee on Transportation and Infrastructure.*

20 (d) *FUNDING.*—*From the funds authorized by section*
21 *4222(c)(3) of this title, \$200,000 shall be made available*
22 *for each of fiscal years 2004 and 2005 to carry out this*
23 *section.*

24 **SEC. 4225. CDL LEARNER'S PERMIT PROGRAM.**

25 (a) *IN GENERAL.*—*Chapter 313 is amended—*

1 (1) by striking “time.” in section 31302 and in-
2 serting “license, and may have only 1 learner’s per-
3 mit at any time.”;

4 (2) by inserting “and learners’ permits” after
5 “licenses” the first place it appears in section 31308;

6 (3) by striking “licenses.” in section 31308 and
7 inserting “licenses and permits.”;

8 (4) by redesignating paragraphs (2) and (3) of
9 section 31308 as paragraphs (3) and (4), respectively,
10 and inserting after paragraph (1) the following:

11 “(2) before a commercial driver’s license learn-
12 er’s permit can be issued to an individual, the indi-
13 vidual must pass a written test on the operation of
14 a commercial motor vehicle that complies with the
15 minimum standards prescribed by the Secretary
16 under section 31305(a) of this title.”;

17 (5) by inserting “or learner’s permit” after “li-
18 cense” each place it appears in paragraphs (3) and
19 (4), as redesignated, of section 31308; and

20 (6) by inserting “or learner’s permit” after “li-
21 cense” each place it appears in section 31309(b).

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) Section 31302 is amended by inserting
24 “**and learner’s permits**” in the section caption.

1 (2) Sections 31308 and 31309 are each amended
2 by inserting “**and learner’s permit**” after “**li-**
3 **cence**” in the section captions.

4 (3) The chapter analysis for chapter 313 is
5 amended by striking the item relating to section
6 31302 and inserting the following:

“31302. Limitation on the number of driver’s licenses and learner’s permits.”.

7 (4) The chapter analysis for chapter 313 is
8 amended by striking the items relating to sections
9 31308 and 31309 and inserting the following:

“31308. Commercial driver’s license and learner’s permit.

“31309. Commercial driver’s license and learner’s permit information system.”.

10 **SEC. 4226. HOBBS ACT.**

11 (a) Section 2342(3)(A) of title 28, United States Code,
12 is amended to read as follows:

13 “(A) the Secretary of Transportation issued
14 pursuant to section 2, 9, 37, or 41 of the Ship-
15 ping Act, 1916 (46 U.S.C. App. 802, 803, 808,
16 835, 839, and 841a) or pursuant to Part B or
17 C of subtitle IV of title 49 or pursuant to sub-
18 chapter III of chapter 311, chapter 313, and
19 chapter 315 of Part B of subtitle VI of title 49;
20 and”.

21 (b) Section 351(a) is amended to read as follows:

22 “(a) **JUDICIAL REVIEW.**—An action of the Secretary
23 of Transportation in carrying out a duty or power trans-

1 *ferred under the Department of Transportation Act (Public*
2 *Law 89–670; 80 Stat. 931), or an action of the Adminis-*
3 *trator of the Federal Railroad Administration, Federal*
4 *Motor Carrier Safety Administration, or the Federal Avia-*
5 *tion Administration in carrying out a duty or power spe-*
6 *cifically assigned to the Administrator by that Act, may*
7 *be reviewed judicially to the same extent and in the same*
8 *way as if the action had been an action by the department,*
9 *agency, or instrumentality of the United States Government*
10 *carrying out the duty or power immediately before the*
11 *transfer or assignment.”.*

12 (c) *Section 352 is amended to read as follows:*

13 **“§352. Authority to carry out certain transferred du-**
14 **ties and powers**

15 *“In carrying out a duty or power transferred under*
16 *the Department of Transportation Act (Public Law 89–670;*
17 *80 Stat. 931), the Secretary of Transportation and the Ad-*
18 *ministrators of the Federal Railroad Administration, the*
19 *Federal Motor Carrier Safety Administration, and the Fed-*
20 *eral Aviation Administration have the same authority that*
21 *was vested in the department, agency, or instrumentality*
22 *of the United States Government carrying out the duty or*
23 *power immediately before the transfer. An action of the Sec-*
24 *retary or Administrator in carrying out the duty or power*

1 *has the same effect as when carried out by the department,*
2 *agency, or instrumentality.”*

3 **SEC. 4227. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

4 *Section 521(b)(2) is amended by adding at the end the*
5 *following:*

6 *“(E) COPYING OF RECORDS AND ACCESS TO EQUIP-*
7 *MENT, LANDS, AND BUILDINGS.—A motor carrier subject to*
8 *chapter 51 of subtitle III, a motor carrier, broker, or freight*
9 *forwarder subject to part B of subtitle IV, or the owner or*
10 *operator of a commercial motor vehicle subject to part B*
11 *of subtitle VI of this title who fails to allow the Secretary,*
12 *or an employee designated by the Secretary, promptly upon*
13 *demand to inspect and copy any record or inspect and ex-*
14 *amine equipment, lands, buildings and other property in*
15 *accordance with sections 504(c), 5121(c), and 14122(b) of*
16 *this title shall be liable to the United States for a civil pen-*
17 *alty not to exceed \$500 for each offense, and each day the*
18 *Secretary is denied the right to inspect and copy any record*
19 *or inspect and examine equipment, lands, buildings and*
20 *other property shall constitute a separate offense, except*
21 *that the total of all civil penalties against any violator for*
22 *all offenses related to a single violation shall not exceed*
23 *\$5,000. It shall be a defense to such penalty that the records*
24 *did not exist at the time of the Secretary’s request or could*
25 *not be timely produced without unreasonable expense or ef-*

1 *fort. Nothing herein amends or supersedes any remedy*
2 *available to the Secretary under sections 502(d), 507(c), or*
3 *other provision of this title.”.*

4 **SEC. 4228. MEDICAL PROGRAM.**

5 *(a) IN GENERAL.—Subchapter III of chapter 311 is*
6 *amended by adding at the end the following:*

7 **“§31149. Medical program**

8 *“(a) MEDICAL REVIEW BOARD.—*

9 *“(1) ESTABLISHMENT AND FUNCTION.—The Sec-*
10 *retary of Transportation shall establish a Medical Re-*
11 *view Board to serve as an advisory committee to pro-*
12 *vide the Federal Motor Carrier Safety Administration*
13 *with medical advice and recommendations on driver*
14 *qualification medical standards and guidelines, med-*
15 *ical examiner education, and medical research.*

16 *“(2) COMPOSITION.—The Medical Review Board*
17 *shall be appointed by the Secretary and shall consist*
18 *of 5 members selected from medical institutions and*
19 *private practice. The membership shall reflect exper-*
20 *tise in a variety of specialties relevant to the func-*
21 *tions of the Federal Motor Carrier Safety Administra-*
22 *tion.*

23 *“(b) CHIEF MEDICAL EXAMINER.—The Secretary shall*
24 *appoint a chief medical examiner for the Federal Motor*
25 *Carrier Safety Administration.*

1 “(c) *MEDICAL STANDARDS AND REQUIREMENTS.*—*The*
2 *Secretary, with the advice of the Medical Review Board and*
3 *the chief medical examiner, shall—*

4 “(1) *establish, review, and revise—*

5 “(A) *medical standards for applicants for*
6 *and holders of commercial driver’s licenses that*
7 *will ensure that the physical condition of opera-*
8 *tors of commercial motor vehicles is adequate to*
9 *enable them to operate the vehicles safely;*

10 “(B) *requirements for periodic physical ex-*
11 *aminations of such operators performed by med-*
12 *ical examiners who have received training in*
13 *physical and medical examination standards*
14 *and are listed on a national registry maintained*
15 *by the Department of Transportation; and*

16 “(C) *requirements for notification of the*
17 *chief medical examiner if such an applicant or*
18 *holder—*

19 “(i) *fails to meet the applicable stand-*
20 *ards; or*

21 “(ii) *is found to have a physical or*
22 *mental disability or impairment that would*
23 *interfere with the individual’s ability to op-*
24 *erate a commercial motor vehicle safely;*

1 “(2) require each holder of a commercial driver’s
2 license or learner’s permit to have a current valid
3 medical certificate;

4 “(3) issue such certificates to such holders and
5 applicants who are found, upon examination, to be
6 physically qualified to operate a commercial motor
7 vehicle and to meet applicable medical standards; and

8 “(4) develop, as appropriate, specific courses and
9 materials for medical examiners listed in the national
10 registry established under this section, and require
11 those medical examiners to complete specific training,
12 including refresher courses, to be listed in the registry.

13 “(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—
14 The Secretary, through the Federal Motor Carrier Safety
15 Administration—

16 “(1) shall establish and maintain a current na-
17 tional registry of medical examiners who are qualified
18 to perform examination, testing, inspection, and
19 issuance of a medical certificate;

20 “(2) shall delegate to those examiners the author-
21 ity to issue such certificates if the Medical Review
22 Board develops a system to identify the medical ex-
23 amination forms uniquely and track them; and

24 “(3) shall remove from the registry the name of
25 any medical examiner that fails to meet the qualifica-

1 *tions established by the Secretary for being listed in*
2 *the registry.*

3 “(e) *CONSULTATION AND COOPERATION WITH FAA.*—

4 “(1) *IN GENERAL.*—*The Administrator of the*
5 *Federal Motor Carrier Safety Administration shall*
6 *consult the Administrator of the Federal Aviation Ad-*
7 *ministration with respect to examinations, the*
8 *issuance of certificates, standards, and procedures*
9 *under this section in order to take advantage of such*
10 *aspects of the Federal Aviation Administration’s air-*
11 *man certificate program under chapter 447 of this*
12 *title as the Administrator deems appropriate for car-*
13 *rying out this section.*

14 “(2) *USE OF FAA-QUALIFIED EXAMINERS.*—*The*
15 *Administrator of the Federal Motor Carrier Safety*
16 *Administration and the Administrator of the Federal*
17 *Aviation Administration are authorized and encour-*
18 *aged to execute a memorandum of understanding*
19 *under which individuals holding or applying for a*
20 *commercial driver’s license or learner’s permit may*
21 *be examined, for purposes of this section, by medical*
22 *examiners who are qualified to administer medical*
23 *examinations for airman certificates under chapter*
24 *447 of this title and the regulations thereunder—*

1 “(A) until the national registry required by
2 subsection (d) is fully established; and

3 “(B) to the extent that the Administrators
4 determine appropriate, after that registry is es-
5 tablished.

6 “(f) REGULATIONS.—The Secretary is authorized to
7 promulgate such regulations as may be necessary to carry
8 out this section.”.

9 (b) MEDICAL EXAMINERS.—Section 31136(a)(3) is
10 amended to read as follows:

11 “(3) the physical condition of operators of com-
12 mercial motor vehicles is adequate to enable them to
13 operate the vehicles safely, and the periodic physical
14 examinations required of such operators are per-
15 formed by medical examiners who have received
16 training in physical and medical examination stand-
17 ards and are listed on a national registry maintained
18 by the Department of Transportation; and”.

19 (c) DEFINITION OF MEDICAL EXAMINER.—Section
20 31132 is amended—

21 (1) by redesignating paragraphs (6) through (10)
22 as paragraphs (7) through (11), respectively; and

23 (2) by inserting after paragraph (5) the fol-
24 lowing:

1 “(6) ‘medical examiner’ means an individual li-
2 censed, certified, or registered in accordance with reg-
3 ulations issued by the Federal Motor Carrier Safety
4 Administration as a medical examiner.”.

5 (d) *CONFORMING AMENDMENT.*—The chapter analysis
6 for chapter 311 is amended by inserting after the item relat-
7 ing to section 31148 the following:

 “31149. Medical program.”.

8 (e) *EFFECTIVE DATE.*—The amendment made by sub-
9 section (a) shall take effect 1 year after the date of enact-
10 ment of this Act.

11 **SEC. 4229. OPERATION OF COMMERCIAL MOTOR VEHICLES**
12 **BY INDIVIDUALS WHO USE INSULIN TO TREAT**
13 **DIABETES MELLITUS.**

14 (a) *REVISION OF FINAL RULE.*—Not later than 90
15 days after the date of the enactment of this Act, the Sec-
16 retary shall revise the final rule to allow individuals who
17 use insulin to treat their diabetes to operate commercial
18 motor vehicles in interstate commerce. The revised final rule
19 shall provide for the individual assessment of applicants
20 who use insulin to treat their diabetes and who are, except
21 for their use of insulin, otherwise qualified under the Fed-
22 eral Motor Carrier Safety Regulations. The revised final
23 rule shall be consistent with the criteria described in section
24 4018 of the Transportation Equity Act for the 21st Century
25 (49 U.S.C. 31305 note) and shall conclude the rulemaking

1 *process in the Federal Motor Carrier Safety Administration*
2 *docket relating to qualifications of drivers with diabetes.*

3 (b) *NO HISTORY OF DRIVING WHILE USING INSULIN*
4 *REQUIRED FOR QUALIFICATION.*—*The Secretary may not*
5 *require individuals to have experience operating commer-*
6 *cial motor vehicles while using insulin in order to qualify*
7 *to operate a commercial motor vehicle in interstate com-*
8 *merce.*

9 (c) *HISTORY OF DIABETES CONTROL.*—*The Secretary*
10 *may require an individual to have used insulin for a min-*
11 *imum period of time and demonstrated stable control of di-*
12 *abetes in order to qualify to operate a commercial motor*
13 *vehicle in interstate commerce. Any such requirement, in-*
14 *cluding any requirement with respect to the duration of*
15 *such insulin use, shall be consistent with the findings of*
16 *the expert medical panel reported in July 2000 in “A Re-*
17 *port to Congress on the Feasibility of a Program to Qualify*
18 *Individuals with Insulin-Treated Diabetes Mellitus to Op-*
19 *erate Commercial Motor Vehicles in Interstate Commerce*
20 *as Directed by the Transportation Equity Act for the 21st*
21 *Century”.*

22 (d) *APPLICABLE STANDARD.*—*The Secretary shall en-*
23 *sure that individuals who use insulin to treat their diabetes*
24 *are not held to a higher standard than other qualified com-*
25 *mercial drivers, except to the extent that limited operating,*

1 *monitoring, or medical requirements are deemed medically*
2 *necessary by experts in the field of diabetes medicine.*

3 **SEC. 4230. FINANCIAL RESPONSIBILITY FOR PRIVATE**
4 **MOTOR CARRIERS.**

5 *(a) TRANSPORTATION OF PASSENGERS.—*

6 *(1) Section 31138(a) is amended to read as fol-*
7 *lows:*

8 *“(a) GENERAL REQUIREMENT.—The Secretary of*
9 *Transportation shall prescribe regulations to require min-*
10 *imum levels of financial responsibility sufficient to satisfy*
11 *liability amounts established by the Secretary covering pub-*
12 *lic liability and property damage for the transportation of*
13 *passengers by motor vehicle in the United States between*
14 *a place in a State and—*

15 *“(1) a place in another State;*

16 *“(2) another place in the same State through a*
17 *place outside of that State; or*

18 *“(3) a place outside the United States.”.*

19 *(2) Section 31138(c) is amended by adding at*
20 *the end the following:*

21 *“(4) The Secretary may require a person, other*
22 *than a motor carrier as defined in section 13102(12)*
23 *of this title, transporting passengers by motor vehicle*
24 *to file with the Secretary the evidence of financial re-*
25 *sponsibility specified in subsection (c)(1) of this sec-*

1 *tion in an amount not less than that required by this*
2 *section, and the laws of the State or States in which*
3 *the person is operating, to the extent applicable. The*
4 *extent of the financial responsibility must be suffi-*
5 *cient to pay, not more than the amount of the finan-*
6 *cial responsibility, for each final judgment against*
7 *the person for bodily injury to, or death of, an indi-*
8 *vidual resulting from the negligent operation, mainte-*
9 *nance, or use of motor vehicles, or for loss or damage*
10 *to property, or both.”.*

11 *(b) TRANSPORTATION OF PROPERTY.—Section 31139*
12 *is amended—*

13 *(1) by striking so much of subsection (b) as pre-*
14 *cedes paragraph (2) and inserting the following:*

15 *“(b) GENERAL REQUIREMENTS AND MINIMUM*
16 *AMOUNT.—*

17 *“(1) The Secretary of Transportation shall pre-*
18 *scribe regulations to require minimum levels of finan-*
19 *cial responsibility sufficient to satisfy liability*
20 *amounts established by the Secretary covering public*
21 *liability, property damage, and environmental res-*
22 *toration for the transportation of property by motor*
23 *vehicle in the United States between a place in a*
24 *State and—*

25 *“(A) a place in another State;*

1 “(B) another place in the same State
2 through a place outside of that State; or

3 “(C) a place outside the United States.”;

4 (2) by aligning the left margin of paragraph (2)
5 of subsection (b) with the left margin of paragraph
6 (1) of that subsection (as amended by paragraph (1)
7 of this subsection); and

8 (3) by redesignating subsection (c) through (g) as
9 subsections (d) through (h), respectively, and inserting
10 after subsection (b) the following:

11 “(c) *FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-*
12 *BILITY.—The Secretary may require a motor private car-*
13 *rier, as defined in section 13102 of this title, to file with*
14 *the Secretary the evidence of financial responsibility speci-*
15 *fied in subsection (b) of this section in an amount not less*
16 *than that required by this section, and the laws of the State*
17 *or States in which the motor private carrier is operating,*
18 *to the extent applicable. The amount of the financial re-*
19 *sponsibility must be sufficient to pay, not more than the*
20 *amount of the financial responsibility, for each final judg-*
21 *ment against the motor private carrier for bodily injury*
22 *to, or death of, an individual resulting from negligent oper-*
23 *ation, maintenance, or use of motor vehicles, or for loss or*
24 *damage to property, or both.”.*

1 **SEC. 4231. INCREASED PENALTIES FOR OUT-OF-SERVICE**
2 **VIOLATIONS AND FALSE RECORDS.**

3 *(a) Section 521(b)(2)(B) is amended to read as follows:*

4 *“(B) RECORDKEEPING AND REPORTING VIOLA-*
5 *TIONS.—A person required to make a report to the*
6 *Secretary, answer a question, or make, prepare, or*
7 *preserve a record under section 504 of this title or*
8 *under any regulation issued by the Secretary pursu-*
9 *ant to subchapter III of chapter 311 (except sections*
10 *31138 and 31139) or section 31502 of this title about*
11 *transportation by motor carrier, motor carrier of mi-*
12 *grant workers, or motor private carrier, or an officer,*
13 *agent, or employee of that person—*

14 *“(i) who does not make that report, does not*
15 *specifically, completely, and truthfully answer*
16 *that question in 30 days from the date the Sec-*
17 *retary requires the question to be answered, or*
18 *does not make, prepare, or preserve that record*
19 *in the form and manner prescribed by the Sec-*
20 *retary, shall be liable to the United States for a*
21 *civil penalty in an amount not to exceed \$1,000*
22 *for each offense, and each day of the violation*
23 *shall constitute a separate offense, except that the*
24 *total of all civil penalties assessed against any*
25 *violation for all offenses related to any single vio-*
26 *lation shall not exceed \$10,000; or*

1 “(i) who knowingly falsifies, destroys, mu-
2 tilates, or changes a required report or record,
3 knowingly files a false report with the Secretary,
4 knowingly makes or causes or permits to be
5 made a false or incomplete entry in that record
6 about an operation or business fact or trans-
7 action, or knowingly makes, prepares, or pre-
8 serves a record in violation of a regulation or
9 order of the Secretary, shall be liable to the
10 United States for a civil penalty in an amount
11 not to exceed \$10,000 for each violation, if any
12 such action can be shown to have misrepresented
13 a fact that constitutes a violation other than a
14 reporting or recordkeeping violation.”.

15 (b) Section 31310(i)(2) is amended to read as follows:

16 “(2) The Secretary shall prescribe regulations es-
17 tablishing sanctions and penalties related to viola-
18 tions of out-of-service orders by individuals operating
19 commercial motor vehicles. The regulations shall re-
20 quire at least that—

21 “(A) an operator of a commercial motor ve-
22 hicle found to have committed a first violation of
23 an out-of-service order shall be disqualified from
24 operating such a vehicle for at least 180 days
25 and liable for a civil penalty of at least \$2,500;

1 “(B) an operator of a commercial motor ve-
2 hicle found to have committed a second violation
3 of an out-of-service order shall be disqualified
4 from operating such a vehicle for at least 2 years
5 and not more than 5 years and liable for a civil
6 penalty of at least \$5,000;

7 “(C) an employer that knowingly allows or
8 requires an employee to operate a commercial
9 motor vehicle in violation of an out-of-service
10 order shall be liable for a civil penalty of not
11 more than \$25,000; and

12 “(D) an employer that knowingly and will-
13 fully allows or requires an employee to operate
14 a commercial motor vehicle in violation of an
15 out-of-service order shall, upon conviction, be
16 subject for each offense to imprisonment for a
17 term not to exceed 1 year or a fine under title
18 18, United States Code, or both.”.

19 **SEC. 4232. ELIMINATION OF COMMODITY AND SERVICE EX-**
20 **EMPTIONS.**

21 (a) Section 13506(a) is amended—

22 (1) by striking paragraphs (6), (11), (12), (13),
23 and (15);

1 (2) by redesignating paragraphs (7), (8), (9),
2 (10), and (14) as paragraphs (6), (7), (8), (9) and
3 (10), respectively;

4 (3) by inserting “or” after the semicolon in
5 paragraph (9), as redesignated; and

6 (4) striking “13904(d); or” in paragraph (1), as
7 redesignated, and inserting “14904(d).”.

8 (b) Section 13507 is amended by striking “(6), (8),
9 (11), (12), or (13)” and inserting “(6)”.

10 **SEC. 4233. INTRASTATE OPERATIONS OF INTERSTATE**
11 **MOTOR CARRIERS.**

12 (a) Subsection (a) of section 31144 is amended to read
13 as follows:

14 “(a) *IN GENERAL.*—The Secretary shall—

15 “(1) determine whether an owner or operator is
16 fit to operate safely commercial motor vehicles, uti-
17 lizing among other things the accident record of an
18 owner or operator operating in interstate commerce
19 and the accident record and safety inspection record
20 of such owner or operator in operations that affect
21 interstate commerce;

22 “(2) periodically update such safety fitness deter-
23 minations;

24 “(3) make such final safety fitness determina-
25 tions readily available to the public; and

1 “(4) prescribe by regulation penalties for viola-
2 tions of this section consistent with section 521.”.

3 (b) Subsection (c) of section 31144 is amended by add-
4 ing at the end the following:

5 “(5) *TRANSPORTATION AFFECTING INTERSTATE*
6 *COMMERCE.—Owners or operators of commercial*
7 *motor vehicles prohibited from operating in interstate*
8 *commerce pursuant to paragraphs (1) through (3) of*
9 *this section may not operate any commercial motor*
10 *vehicle that affects interstate commerce until the Sec-*
11 *retary determines that such owner or operator is fit.”.*

12 (c) Section 31144 is amended by redesignating sub-
13 sections (d), (e), and the second subsection (c) as subsections
14 (e), (f), and (g), respectively, and inserting after subsection
15 (c) the following:

16 “(d) *DETERMINATION OF UNFITNESS BY A STATE.—*
17 *If a State that receives Motor Carrier Safety Assistance*
18 *Program funds pursuant to section 31102 of this title deter-*
19 *mines, by applying the standards prescribed by the Sec-*
20 *retary under subsection (b) of this section, that an owner*
21 *or operator of commercial motor vehicles that has its prin-*
22 *cipal place of business in that State and operates in intra-*
23 *state commerce is unfit under such standards and prohibits*
24 *the owner or operator from operating such vehicles in the*
25 *State, the Secretary shall prohibit the owner or operator*

1 *from operating such vehicles in interstate commerce until*
2 *the State determines that the owner or operator is fit.”.*

3 **SEC. 4234. AUTHORITY TO STOP COMMERCIAL MOTOR VEHI-**
4 **CLES.**

5 *(a) IN GENERAL.—Chapter 2 of title 18, United States*
6 *Code, is amended by adding at the end the following:*

7 **“§38. Commercial motor vehicles required to stop for**
8 **inspections**

9 *“(a) A driver of a commercial motor vehicle, as defined*
10 *in section 31132(1) of title 49, shall stop and submit to*
11 *inspection of the vehicle, driver, cargo, and required records*
12 *when directed to do so by an authorized employee of the*
13 *Federal Motor Carrier Safety Administration, Department*
14 *of Transportation, at or in the vicinity of an inspection*
15 *site. The driver shall not leave the inspection site until au-*
16 *thorized to do so by an authorized employee.*

17 *“(b) A driver of a commercial motor vehicle, as defined*
18 *in subsection (a), who knowingly fails to stop for inspection*
19 *when directed to do so by an authorized employee of the*
20 *Federal Motor Carrier Safety Administration at or in the*
21 *vicinity of an inspection site, or leaves the inspection site*
22 *without authorization, shall be fined under this title or im-*
23 *prisoned not more than 1 year, or both.”.*

1 (b) *AUTHORITY OF FMCSA.*—Chapter 203 of title 18,
2 *United States Code*, is amended by adding at the end the
3 *following*:

4 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**
5 **ministration**

6 *“Authorized employees of the Federal Motor Carrier*
7 *Safety Administration may direct a driver of a commercial*
8 *motor vehicle, as defined in 49 U.S.C. 31132(1), to stop*
9 *for inspection of the vehicle, driver, cargo, and required*
10 *records at or in the vicinity of an inspection site.”.*

11 (c) *CONFORMING AMENDMENTS.*—

12 (1) *The chapter analysis for chapter 2 of title 18,*
13 *United States Code*, is amended by inserting after the
14 *item relating to section 37 the following*:

“38. Commercial motor vehicles required to stop for inspections.”.

15 (2) *The chapter analysis for chapter 203 of title*
16 *18, United States Code*, is amended by inserting after
17 *the item relating to section 3063 the following*:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

18 **SEC. 4235. REVOCATION OF OPERATING AUTHORITY.**

19 *Section 13905(e) is amended—*

20 (1) *by striking paragraph (1) and inserting the*
21 *following*:

22 *“(1) PROTECTION OF SAFETY.—Notwithstanding*
23 *subchapter II of chapter 5 of title 5, the Secretary—*

1 “(A) may suspend the registration of a
2 motor carrier, a freight forwarder, or a broker
3 for failure to comply with requirements of the
4 Secretary pursuant to section 13904(c) or 13906
5 of this title, or an order or regulation of the Sec-
6 retary prescribed under those sections; and

7 “(B) shall revoke the registration of a motor
8 carrier that has been prohibited from operating
9 in interstate commerce for failure to comply with
10 the safety fitness requirements of section 31144 of
11 this title.”;

12 (2) by striking “may suspend a registration” in
13 paragraph (2) and inserting “shall revoke the reg-
14 istration”; and

15 (3) by striking paragraph (3) and inserting the
16 following:

17 “(3) NOTICE; PERIOD OF SUSPENSION.—The Sec-
18 retary may suspend or revoke under this subsection
19 the registration only after giving notice of the suspen-
20 sion or revocation to the registrant. A suspension re-
21 mains in effect until the registrant complies with the
22 applicable sections or, in the case of a suspension
23 under paragraph (2), until the Secretary revokes the
24 suspension.”.

1 **SEC. 4236. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
2 **CARRIER MANAGEMENT.**

3 (a) *IN GENERAL.*—Section 31135 is amended—

4 (1) *by inserting “(a) IN GENERAL.—” before*
5 *“Each”; and*

6 (2) *by adding at the end the following:*

7 “(b) *PATTERN OF NON-COMPLIANCE.*—*If an officer of*
8 *a motor carrier engages in a pattern or practice of avoiding*
9 *compliance, or masking or otherwise concealing non-com-*
10 *pliance, with regulations on commercial motor vehicle safe-*
11 *ty prescribed under this subchapter, the Secretary may sus-*
12 *pend, amend, or revoke any part of the motor carrier’s reg-*
13 *istration under section 13905 of this title.*

14 “(c) *LIST OF PROPOSED OFFICERS.*—*Each person*
15 *seeking registration as a motor carrier under section 13902*
16 *of this title shall submit a list of the proposed officers of*
17 *the motor carrier. If the Secretary determines that any of*
18 *the proposed officers has previously engaged in a pattern*
19 *or practice of avoiding compliance, or masking or otherwise*
20 *concealing non-compliance, with regulations on commercial*
21 *motor vehicle safety prescribed under this chapter, the Sec-*
22 *retary may deny the person’s application for registration*
23 *as a motor carrier under section 13902(a)(3).*

24 “(d) *REGULATIONS.*—*The Secretary shall by regula-*
25 *tion establish standards to implement subsections (b) and*
26 *(c).*

1 “(e) *DEFINITIONS.*—*In this section:*

2 “(1) *MOTOR CARRIER.*—*The term motor carrier*
3 *has the meaning given the term in section 13102(12)*
4 *of this title; and*

5 “(2) *OFFICER.*—*The term officer means an*
6 *owner, chief executive officer, chief operating officer,*
7 *chief financial officer, safety director, vehicle mainte-*
8 *nance supervisor and driver supervisor of a motor*
9 *carrier, regardless of the title attached to those func-*
10 *tions.”.*

11 (b) *REGISTRATION OF CARRIERS.*—*Section*
12 *13902(a)(1)(B) is amended to read as follows:*

13 “(B) *any safety regulations imposed by the Sec-*
14 *retary, the duties of employers and employees estab-*
15 *lished by the Secretary under section 31135, and the*
16 *safety fitness requirements established by the Sec-*
17 *retary under section 31144; and”.*

18 **SEC. 4237. MOTOR CARRIER RESEARCH AND TECHNOLOGY**

19 **PROGRAM.**

20 (a) *IN GENERAL.*—*Section 31108 is amended to read*
21 *as follows:*

22 **“§31108. Motor carrier research and technology pro-**
23 **gram**

24 “(a) *RESEARCH, TECHNOLOGY, AND TECHNOLOGY*
25 *TRANSFER ACTIVITIES.*—

1 “(1) *The Secretary of Transportation shall estab-*
2 *lish and carry out a motor carrier and motor coach*
3 *research and technology program. The Secretary may*
4 *carry out research, development, technology, and tech-*
5 *nology transfer activities with respect to—*

6 “(A) *the causes of accidents, injuries and*
7 *fatalities involving commercial motor vehicles;*
8 *and*

9 “(B) *means of reducing the number and se-*
10 *verity of accidents, injuries and fatalities involv-*
11 *ing commercial motor vehicles.*

12 “(2) *The Secretary may test, develop, or assist in*
13 *testing and developing any material, invention, pat-*
14 *ented article, or process related to the research and*
15 *technology program.*

16 “(3) *The Secretary may use the funds appro-*
17 *priated to carry out this section for training or edu-*
18 *cation of commercial motor vehicle safety personnel,*
19 *including, but not limited to, training in accident re-*
20 *construction and detection of controlled substances or*
21 *other contraband, and stolen cargo or vehicles.*

22 “(4) *The Secretary may carry out this section—*

23 “(A) *independently;*

1 “(B) in cooperation with other Federal de-
2 partments, agencies, and instrumentalities and
3 Federal laboratories; or

4 “(C) by making grants to, or entering into
5 contracts, cooperative agreements, and other
6 transactions with, any Federal laboratory, State
7 agency, authority, association, institution, for-
8 profit or non-profit corporation, organization,
9 foreign country, or person.

10 “(5) The Secretary shall use funds made avail-
11 able to carry out this section to develop, administer,
12 communicate, and promote the use of products of re-
13 search, technology, and technology transfer programs
14 under this section.

15 “(b) COLLABORATIVE RESEARCH AND DEVELOP-
16 MENT.—

17 “(1) To advance innovative solutions to problems
18 involving commercial motor vehicle and motor carrier
19 safety, security, and efficiency, and to stimulate the
20 deployment of emerging technology, the Secretary
21 may carry out, on a cost-shared basis, collaborative
22 research and development with—

23 “(A) non-Federal entities, including State
24 and local governments, foreign governments, col-
25 leges and universities, corporations, institutions,

1 *partnerships, and sole proprietorships that are*
2 *incorporated or established under the laws of any*
3 *State; and*

4 *“(B) Federal laboratories.*

5 *“(2) In carrying out this subsection, the Sec-*
6 *retary may enter into cooperative research and devel-*
7 *opment agreements (as defined in section 12 of the*
8 *Stevenson-Wydler Technology Innovation Act of 1980*
9 *(15 U.S.C. 3710a)).*

10 *“(3)(A) The Federal share of the cost of activities*
11 *carried out under a cooperative research and develop-*
12 *ment agreement entered into under this subsection*
13 *shall not exceed 50 percent, except that if there is sub-*
14 *stantial public interest or benefit, the Secretary may*
15 *approve a greater Federal share.*

16 *“(B) All costs directly incurred by the non-Fed-*
17 *eral partners, including personnel, travel, and hard-*
18 *ware or software development costs, shall be credited*
19 *toward the non-Federal share of the cost of the activi-*
20 *ties described in subparagraph (A).*

21 *“(4) The research, development, or use of a tech-*
22 *nology under a cooperative research and development*
23 *agreement entered into under this subsection, includ-*
24 *ing the terms under which the technology may be li-*
25 *censed and the resulting royalties may be distributed,*

1 *shall be subject to the Stevenson-Wydler Technology*
 2 *Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

3 “(5) Section 5 of title 41, United States Code,
 4 *shall not apply to a contract or agreement entered*
 5 *into under this section.*

6 “(c) *AVAILABILITY OF AMOUNTS.*—*The amounts made*
 7 *available under section 4222(a) of the Motor Carrier Safety*
 8 *Reauthorization Act of 2004 to carry out this section shall*
 9 *remain available until expended.*

10 “(d) *CONTRACT AUTHORITY.*—*Approval by the Sec-*
 11 *retary of a grant with funds made available under section*
 12 *4222(a) of the Motor Carrier Safety Reauthorization Act*
 13 *of 2004 to carry out this section imposes upon the United*
 14 *States Government a contractual obligation for payment of*
 15 *the Government’s share of costs incurred in carrying out*
 16 *the objectives of the grant.”.*

17 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 18 *for chapter 311 is amended by striking the item relating*
 19 *to section 31108, and inserting the following:*

 “31108. *Motor carrier research and technology program.*”.

20 **SEC. 4238. REVIEW OF COMMERCIAL ZONE EXEMPTION PRO-**
 21 **VISION.**

22 “(a) *IN GENERAL.*—*Not later than 1 year after the date*
 23 *of enactment of this Act, the Secretary of Transportation*
 24 *shall complete a review of part 372 of title 49, Code of Fed-*
 25 *eral Regulations, as it pertains to commercial zone exemp-*

1 tions (excluding border commercial zones) from Department
2 of Transportation and Surface Transportation Board regu-
3 lations governing interstate commerce. The Secretary shall
4 determine whether such exemptions should continue to
5 apply as written, should undergo revision, or should be re-
6 voked. The Secretary shall submit to the Senate Committee
7 on Commerce, Science, and Transportation and the House
8 of Representatives Committee on Transportation and Infra-
9 structure a report of the review not later than 14 months
10 after such date of enactment.

11 (b) NOTICE.—The Secretary shall publish notice of the
12 review required by subsection (a) and provide and oppor-
13 tunity for the public to submit comments on the effect of
14 continuing, revising, or revoking the commercial zone ex-
15 emptions in part 372 of title 49, Code of Federal Regula-
16 tions.

17 **SEC. 4239. INTERNATIONAL COOPERATION.**

18 (a) IN GENERAL.—Chapter 311 is amended by insert-
19 ing at the end the following:

20 **“Subchapter IV—Miscellaneous**

21 **“§ 31161. International cooperation**

22 “The Secretary is authorized to use funds appro-
23 priated under section 31104(i) of this title to participate
24 and cooperate in international activities to enhance motor
25 carrier, commercial motor vehicle, driver, and highway

1 *safety by such means as exchanging information, con-*
 2 *ducting research, and examining needs, best practices, and*
 3 *new technology.”.*

4 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 5 *chapter 311 is amended by adding at the end the following:*

“*SUBCHAPTER IV—MISCELLANEOUS*

“*31161. International cooperation.*”.

6 **SEC. 4240. PERFORMANCE AND REGISTRATION INFORMA-**
 7 **TION SYSTEM MANAGEMENT.**

8 (a) *IN GENERAL.*—*Section 31106(b) is amended—*

9 (1) *by striking paragraphs (2) and (3) and in-*
 10 *serting the following:*

11 “(2) *DESIGN.*—*The program shall link Federal*
 12 *motor carrier safety information systems with State*
 13 *commercial vehicle registration and licensing systems*
 14 *and shall be designed to enable a State to—*

15 “(A) *determine the safety fitness of a motor*
 16 *carrier or registrant when licensing or reg-*
 17 *istering the registrant or motor carrier or while*
 18 *the license or registration is in effect; and*

19 “(B) *deny, suspend, or revoke the commer-*
 20 *cial motor vehicle registrations of a motor car-*
 21 *rier or registrant that has been issued an oper-*
 22 *ations out-of-service order by the Secretary.*

1 “(3) *CONDITIONS FOR PARTICIPATION.*—*The Sec-*
2 *retary shall require States, as a condition of partici-*
3 *pation in the program, to—*

4 “(A) *comply with the uniform policies, pro-*
5 *cedures, and technical and operational standards*
6 *prescribed by the Secretary under subsection*
7 *(a)(4);*

8 “(B) *possess the authority to impose sanc-*
9 *tions relating to commercial motor vehicle reg-*
10 *istration on the basis of a Federal safety fitness*
11 *determination; and*

12 “(C) *cancel the motor vehicle registration*
13 *and seize the registration plates of an employer*
14 *found liable under section 31310(i)(2)(C) of this*
15 *title for knowingly allowing or requiring an em-*
16 *ployee to operate a commercial motor vehicle in*
17 *violation of an out-of-service order.”; and*
18 *(2) by striking paragraph (4).*

19 (b) *PERFORMANCE AND REGISTRATION INFORMATION*
20 *SYSTEM MANAGEMENT GRANTS.*—

21 (1) *Subchapter I of chapter 311, as amended by*
22 *this title, is further amended by adding at the end the*
23 *following:*

1 **“§31109. Performance and Registration Information**
 2 **System Management**

3 “(a) *IN GENERAL.*—From the funds authorized by sec-
 4 tion 4222(c)(2) of the Motor Carrier Safety Reauthorization
 5 Act of 2004, the Secretary may make a grant in a fiscal
 6 year to a State to implement the performance and registra-
 7 tion information system management requirements of sec-
 8 tion 31106(b).

9 “(b) *AVAILABILITY OF AMOUNTS.*—Amounts made
 10 available to a State under section 4222(c)(2) of the Motor
 11 Carrier Safety Reauthorization Act of 2004 to carry out
 12 this section shall remain available until expended.

13 “(c) *SECRETARY’S APPROVAL.*—Approval by the Sec-
 14 retary of a grant to a State under section 4222(c)(2) of
 15 the Motor Carrier Safety Reauthorization Act of 2004 to
 16 carry out this section is a contractual obligation of the Gov-
 17 ernment for payment of the amount of the grant.”.

18 (2) *CONFORMING AMENDMENT.*—The chapter
 19 analysis for chapter 311 is amended by inserting
 20 after the item relating to section 31108 the following:

“31109. Performance and Registration Information System Management.”.

21 **SEC. 4241. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
 22 **AND NETWORKS DEPLOYMENT.**

23 (a) *IN GENERAL.*—The Secretary shall carry out a
 24 commercial vehicle information systems and networks pro-
 25 gram to—

1 (1) *improve the safety and productivity of com-*
2 *mercial vehicles; and*

3 (2) *reduce costs associated with commercial vehi-*
4 *cle operations and Federal and State commercial ve-*
5 *hicle regulatory requirements.*

6 (b) *PURPOSE.*—*The program shall advance the techno-*
7 *logical capability and promote the deployment of intelligent*
8 *transportation system applications for commercial vehicle*
9 *operations, including commercial vehicle, commercial driv-*
10 *er, and carrier-specific information systems and networks.*

11 (c) *CORE DEPLOYMENT GRANTS.*—

12 (1) *IN GENERAL.*—*The Secretary shall make*
13 *grants to eligible States for the core deployment of*
14 *commercial vehicle information systems and networks.*

15 (2) *ELIGIBILITY.*—*To be eligible for a core de-*
16 *ployment grant under this section, a State—*

17 (A) *shall have a commercial vehicle infor-*
18 *mation systems and networks program plan and*
19 *a top level system design approved by the Sec-*
20 *retary;*

21 (B) *shall certify to the Secretary that its*
22 *commercial vehicle information systems and net-*
23 *works deployment activities, including hardware*
24 *procurement, software and system development,*
25 *and infrastructure modifications, are consistent*

1 *with the national intelligent transportation sys-*
2 *tems and commercial vehicle information sys-*
3 *tems and networks architectures and available*
4 *standards, and promote interoperability and effi-*
5 *ciency to the extent practicable; and*

6 *(C) shall agree to execute interoperability*
7 *tests developed by the Federal Motor Carrier*
8 *Safety Administration to verify that its systems*
9 *conform with the national intelligent transpor-*
10 *tation systems architecture, applicable stand-*
11 *ards, and protocols for commercial vehicle infor-*
12 *mation systems and networks.*

13 *(3) AMOUNT OF GRANTS.—The maximum aggre-*
14 *gate amount a State may receive under this section*
15 *for the core deployment of commercial vehicle infor-*
16 *mation systems and networks may not exceed*
17 *\$2,500,000.*

18 *(4) USE OF FUNDS.—Funds from a grant under*
19 *this subsection may only be used for the core deploy-*
20 *ment of commercial vehicle information systems and*
21 *networks. Eligible States that have either completed*
22 *the core deployment of commercial vehicle informa-*
23 *tion systems and networks or completed such deploy-*
24 *ment before core deployment grant funds are expended*
25 *may use the remaining core deployment grant funds*

1 for the expanded deployment of commercial vehicle in-
2 formation systems and networks in their State.

3 (d) *EXPANDED DEPLOYMENT GRANTS.*—

4 (1) *IN GENERAL.*—For each fiscal year, from the
5 funds remaining after the Secretary has made core
6 deployment grants under subsection (c) of this section,
7 the Secretary may make grants to each eligible State,
8 upon request, for the expanded deployment of com-
9 mercial vehicle information systems and networks.

10 (2) *ELIGIBILITY.*—Each State that has com-
11 pleted the core deployment of commercial vehicle in-
12 formation systems and networks is eligible for an ex-
13 panded deployment grant.

14 (3) *AMOUNT OF GRANTS.*—Each fiscal year, the
15 Secretary may distribute funds available for ex-
16 panded deployment grants equally among the eligible
17 States, but not to exceed \$1,000,000 per State.

18 (4) *USE OF FUNDS.*—A State may use funds
19 from a grant under this subsection only for the ex-
20 panded deployment of commercial vehicle information
21 systems and networks.

22 (e) *FEDERAL SHARE.*—The Federal share of the cost
23 of a project payable from funds made available to carry
24 out this section shall not exceed 50 percent. The total Fed-

1 eral share of the cost of a project payable from all eligible
2 sources shall not exceed 80 percent.

3 (f) *APPLICABILITY OF TITLE 23, UNITED STATES*
4 *CODE.*—Funds authorized to be appropriated under section
5 4222(c)(4) shall be available for obligation in the same
6 manner and to the same extent as if such funds were appor-
7 tioned under chapter 1 of title 23, United States Code, ex-
8 cept that such funds shall remain available until expended.

9 (g) *DEFINITIONS.*—In this section:

10 (1) *COMMERCIAL VEHICLE INFORMATION SYS-*
11 *TEMS AND NETWORKS.*—The term “commercial vehi-
12 cle information systems and networks” means the in-
13 formation systems and communications networks that
14 provide the capability to—

15 (A) improve the safety of commercial vehicle
16 operations;

17 (B) increase the efficiency of regulatory in-
18 spection processes to reduce administrative bur-
19 dens by advancing technology to facilitate in-
20 spections and increase the effectiveness of enforce-
21 ment efforts;

22 (C) advance electronic processing of reg-
23 istration information, driver licensing informa-
24 tion, fuel tax information, inspection and crash
25 data, and other safety information;

1 (D) enhance the safe passage of commercial
2 vehicles across the United States and across
3 international borders; and

4 (E) promote the communication of informa-
5 tion among the States and encourage multistate
6 cooperation and corridor development.

7 (2) *COMMERCIAL VEHICLE OPERATIONS*.—The
8 term “commercial vehicle operations”—

9 (A) means motor carrier operations and
10 motor vehicle regulatory activities associated
11 with the commercial movement of goods, includ-
12 ing hazardous materials, and passengers; and

13 (B) with respect to the public sector, in-
14 cludes the issuance of operating credentials, the
15 administration of motor vehicle and fuel taxes,
16 and roadside safety and border crossing inspec-
17 tion and regulatory compliance operations.

18 (3) *CORE DEPLOYMENT*.—The term “core deploy-
19 ment” means the deployment of systems in a State
20 necessary to provide the State with the following ca-
21 pabilities:

22 (A) *SAFETY INFORMATION EXCHANGE*.—
23 Safety information exchange to—

1 (i) electronically collect and transmit
2 commercial vehicle and driver inspection
3 data at a majority of inspection sites;

4 (ii) connect to the Safety and Fitness
5 Electronic Records system for access to
6 interstate carrier and commercial vehicle
7 data, summaries of past safety performance,
8 and commercial vehicle credentials informa-
9 tion; and

10 (iii) exchange carrier data and com-
11 mercial vehicle safety and credentials infor-
12 mation within the State and connect to
13 Safety and Fitness Electronic Records for
14 access to interstate carrier and commercial
15 vehicle data.

16 (B) *INTERSTATE CREDENTIALS ADMINIS-*
17 *TRATION.*—*Interstate credentials administration*
18 *to—*

19 (i) perform end-to-end processing, in-
20 cluding carrier application, jurisdiction ap-
21 plication processing, and credential
22 issuance, of at least the International Reg-
23 istration Plan and International Fuel Tax
24 Agreement credentials and extend this proc-
25 essing to other credentials, including intra-

1 state, titling, oversize/overweight, carrier
2 registration, and hazardous materials;

3 (ii) connect to the International Reg-
4 istration Plan and International Fuel Tax
5 Agreement clearinghouses; and

6 (iii) have at least 10 percent of the
7 transaction volume handled electronically,
8 and have the capability to add more car-
9 riers and to extend to branch offices where
10 applicable.

11 (C) *ROADSIDE SCREENING.*—Roadside elec-
12 tronic screening to electronically screen trans-
13 ponder-equipped commercial vehicles at a min-
14 imum of 1 fixed or mobile inspection sites and
15 to replicate this screening at other sites.

16 (4) *EXPANDED DEPLOYMENT.*—The term “ex-
17 panded deployment” means the deployment of systems
18 in a State that exceed the requirements of an core de-
19 ployment of commercial vehicle information systems
20 and networks, improve safety and the productivity of
21 commercial vehicle operations, and enhance transpor-
22 tation security.

23 **SEC. 4242. OUTREACH AND EDUCATION.**

24 (a) *IN GENERAL.*—The Secretary of Transportation,
25 through the National Highway Traffic Safety Administra-

1 *tion and the Federal Motor Carrier Safety Administration,*
 2 *may undertake outreach and education initiatives, includ-*
 3 *ing the “Share the Road Safely” program, that may reduce*
 4 *the number of highway accidents, injuries, and fatalities*
 5 *involving commercial motor vehicles. The Secretary may*
 6 *not use funds authorized by this part for the “Safety Is*
 7 *Good Business” program.*

8 **(b) AUTHORIZATION OF APPROPRIATIONS.**—*There are*
 9 *authorized to be appropriated to the Secretary for fiscal*
 10 *year 2004 to carry out this section—*

11 (1) *\$250,000 for the Federal Motor Carrier Safe-*
 12 *ty Administration; and*

13 (2) *\$750,000 for the National Highway Traffic*
 14 *Safety Administration.*

15 **SEC. 4243. OPERATION OF RESTRICTED PROPERTY-CAR-**
 16 **RIVING UNITS ON NATIONAL HIGHWAY SYS-**
 17 **TEM.**

18 **(a) RESTRICTED PROPERTY-CARRYING UNIT DE-**
 19 **FINED.**—*Section 31111(a) is amended—*

20 (1) *by redesignating paragraph (3) as para-*
 21 *graph (4); and*

22 (2) *by inserting after paragraph (2) the fol-*
 23 *lowing:*

24 **“(3) RESTRICTED PROPERTY-CARRYING UNIT.**—
 25 *The term ‘restricted property-carrying unit’ means*

1 *any trailer, semi-trailer, container, or other property-*
2 *carrying unit that is longer than 53 feet.”.*

3 *(b) PROHIBITION ON OPERATION OF RESTRICTED*
4 *PROPERTY-CARRYING UNITS.—*

5 *(1) IN GENERAL.—Section 31111(b)(1)(C) is*
6 *amended to read as follows:*

7 *“(C) allows operation on any segment of the Na-*
8 *tional Highway System, including the Interstate Sys-*
9 *tem, of a restricted property-carrying unit unless the*
10 *operation is specified on the list published under sub-*
11 *section (h);”.*

12 *(2) EFFECTIVE DATE.—The amendment made by*
13 *paragraph (1) shall take effect 270 days after the date*
14 *of enactment of this subsection.*

15 *(c) LIMITATIONS.—Section 31111 is amended by add-*
16 *ing at the end the following:*

17 *“(h) RESTRICTED PROPERTY-CARRYING UNITS.—*

18 *“(1) APPLICABILITY OF PROHIBITION.—*

19 *“(A) IN GENERAL.—Notwithstanding sub-*
20 *section (b)(1)(C), a restricted property-carrying*
21 *unit may continue to operate on a segment of the*
22 *National Highway System if the operation of*
23 *such unit is specified on the list published under*
24 *paragraph (2).*

1 “(B) *APPLICABILITY OF STATE LAWS AND*
2 *REGULATIONS.*—*All operations specified on the*
3 *list published under paragraph (2) shall con-*
4 *tinue to be subject to all State statutes, regula-*
5 *tions, limitations and conditions, including rout-*
6 *ing-specific, commodity-specific, and configura-*
7 *tion-specific designations and all other restric-*
8 *tions, in force on June 1, 2003.*

9 “(C) *FIRE-FIGHTING UNITS.*—*Subsection*
10 *(b)(1)(C) shall not apply to the operation of a*
11 *restricted property-carrying unit that is used ex-*
12 *clusively for fire-fighting.*

13 “(2) *LISTING OF RESTRICTED PROPERTY-CAR-*
14 *RYING UNITS.*—

15 “(A) *IN GENERAL.*—*Not later than 60 days*
16 *after the date of enactment of the Motor Carrier*
17 *Safety Reauthorization Act of 2004, the Sec-*
18 *retary shall initiate a proceeding to determine*
19 *and publish a list of restricted property-carrying*
20 *units that were authorized by State officials pur-*
21 *suant to State statute or regulation on June 1,*
22 *2003, and in actual and lawful operation on a*
23 *regular or periodic basis (including seasonal op-*
24 *erations) on or before June 1, 2003.*

1 “(B) *LIMITATION.*—*A restricted property-*
2 *carrying unit may not be included on the list*
3 *published under subparagraph (A) on the basis*
4 *that a State law or regulation could have au-*
5 *thorized the operation of the unit at some prior*
6 *date by permit or otherwise.*

7 “(C) *PUBLICATION OF FINAL LIST.*—*Not*
8 *later than 270 days after the date of enactment*
9 *of this subsection, the Secretary shall publish a*
10 *final list of restricted property-carrying units*
11 *described in subparagraph (A).*

12 “(D) *UPDATES.*—*The Secretary shall up-*
13 *date the list published under subparagraph (C)*
14 *as necessary to reflect new designations made to*
15 *the National Highway System.*

16 “(3) *APPLICABILITY OF PROHIBITION.*—*The pro-*
17 *hibition established by subsection (b)(1)(C) shall*
18 *apply to any new designation made to the National*
19 *Highway System and remain in effect on those por-*
20 *tions of the National Highway System that cease to*
21 *be designated as part of the National Highway Sys-*
22 *tem.*

23 “(4) *LIMITATION ON STATUTORY CONSTRUC-*
24 *TION.*—*This subsection does not prevent a State from*
25 *further restricting in any manner or prohibiting the*

1 *operation of a restricted property-carrying unit; ex-*
 2 *cept that such restrictions or prohibitions shall be*
 3 *consistent with the requirements of this section and*
 4 *sections 31112 through 31114.”.*

5 *(d) ENFORCEMENT.—The second sentence of section*
 6 *141(a) of title 23, United States Code, is amended by strik-*
 7 *ing “section 31112” and inserting “sections 31111 and*
 8 *31112”.*

9 **SEC. 4244. OPERATION OF LONGER COMBINATION VEHI-**
 10 **CLES ON NATIONAL HIGHWAY SYSTEM.**

11 *(a) IN GENERAL.—Section 31112 is amended—*

12 *(1) by redesignating subsections (f) and (g) as*
 13 *subsections (g) and (h), respectively; and*

14 *(2) by inserting after subsection (e) the following:*

15 *“(f) NATIONAL HIGHWAY SYSTEM.—*

16 *“(1) GENERAL RULE.—A State may not allow,*
 17 *on a segment of the National Highway System that*
 18 *is not covered under subsection (b) or (c), the oper-*
 19 *ation of a commercial motor vehicle combination (ex-*
 20 *cept a vehicle or load that cannot be dismantled eas-*
 21 *ily or divided easily and that has been issued a spe-*
 22 *cial permit under applicable State law) with more*
 23 *than 1 property-carrying unit (not including the*
 24 *truck tractor) whose property-carrying units are more*
 25 *than—*

1 “(A) *the maximum combination trailer,*
2 *semitrailer, or other type of length limitation al-*
3 *lowed by law or regulation of that State on June*
4 *1, 2003; or*

5 “(B) *the length of the property-carrying*
6 *units of those commercial motor vehicle combina-*
7 *tions, by specific configuration, in actual and*
8 *lawful operation on a regular or periodic basis*
9 *(including continuing seasonal operation) in*
10 *that State on or before June 1, 2003.*

11 “(2) *ADDITIONAL LIMITATIONS.—*

12 “(A) *APPLICABILITY OF STATE RESTRIC-*
13 *TIONS.—A commercial motor vehicle combina-*
14 *tion whose operation in a State is not prohibited*
15 *under paragraph (1) may continue to operate in*
16 *the State on highways described in paragraph*
17 *(1) only in compliance with all State laws, regu-*
18 *lations, limitations, and conditions, including*
19 *routing-specific and configuration-specific des-*
20 *ignations and all other restrictions in force in*
21 *the State on June 1, 2003. Subject to regulations*
22 *prescribed by the Secretary under subsection (h),*
23 *the State may make minor adjustments of a tem-*
24 *porary and emergency nature to route designa-*
25 *tions and vehicle operating restrictions in effect*

1 *on June 1, 2003, for specific safety purposes and*
2 *road construction.*

3 “(B) *ADDITIONAL STATE RESTRICTIONS.—*
4 *This subsection does not prevent a State from*
5 *further restricting in any manner or prohibiting*
6 *the operation of a commercial motor vehicle com-*
7 *bination subject to this section, except that such*
8 *restrictions or prohibitions shall be consistent*
9 *with this section and sections 31113(a),*
10 *31113(b), and 31114.*

11 “(C) *MINOR ADJUSTMENTS.—A State mak-*
12 *ing a minor adjustment of a temporary and*
13 *emergency nature as authorized by subparagraph*
14 *(A) or further restricting or prohibiting the oper-*
15 *ation of a commercial motor vehicle combination*
16 *as authorized by subparagraph (B) shall advise*
17 *the Secretary not later than 30 days after the ac-*
18 *tion. The Secretary shall publish a notice of the*
19 *action in the Federal Register.*

20 “(3) *LIST OF STATE LENGTH LIMITATIONS.—*

21 “(A) *STATE SUBMISSIONS.—Not later than*
22 *60 days after the date of enactment of the Motor*
23 *Carrier Safety Reauthorization Act of 2004, each*
24 *State shall submit to the Secretary for publica-*
25 *tion a complete list of State length limitations*

1 *applicable to commercial motor vehicle combina-*
2 *tions operating in the State on the highways de-*
3 *scribed in paragraph (1). The list shall indicate*
4 *the applicable State laws and regulations associ-*
5 *ated with the length limitations. If a State does*
6 *not submit the information as required, the Sec-*
7 *retary shall complete and file the information for*
8 *the State.*

9 “(B) *PUBLICATION OF INTERIM LIST.—Not*
10 *later than 90 days after the date of enactment of*
11 *the Motor Carrier Safety Reauthorization Act of*
12 *2004, the Secretary shall publish an interim list*
13 *in the Federal Register consisting of all informa-*
14 *tion submitted under subparagraph (A). The*
15 *Secretary shall review for accuracy all informa-*
16 *tion submitted by a State under subparagraph*
17 *(A) and shall solicit and consider public com-*
18 *ment on the accuracy of the information.*

19 “(C) *LIMITATION.—A law or regulation*
20 *may not be included on the list submitted by a*
21 *State or published by the Secretary merely be-*
22 *cause it authorized, or could have authorized, by*
23 *permit or otherwise, the operation of commercial*
24 *motor vehicle combinations not in actual oper-*

1 *ation on a regular or periodic basis on or before*
2 *June 1, 2003.*

3 “(D) *PUBLICATION OF FINAL LIST.*—*Except*
4 *as revised under this subparagraph or subpara-*
5 *graph (E), the list shall be published as final in*
6 *the Federal Register not later than 270 days*
7 *after the date of enactment of the Motor Carrier*
8 *Safety Reauthorization Act of 2004. In pub-*
9 *lishing the final list, the Secretary shall make*
10 *any revisions necessary to correct inaccuracies*
11 *identified under subparagraph (B). After publi-*
12 *cation of the final list, commercial motor vehicle*
13 *combinations prohibited under paragraph (1)*
14 *may not operate on a highway described in*
15 *paragraph (1) except as published on the list.*

16 “(E) *INACCURACIES.*—*On the Secretary’s*
17 *own motion or on request by any person (includ-*
18 *ing a State), the Secretary shall review the list*
19 *published under subparagraph (D). If the Sec-*
20 *retary decides there is reason to believe a mistake*
21 *was made in the accuracy of the list, the Sec-*
22 *retary shall begin a proceeding to decide whether*
23 *a mistake was made. If the Secretary decides*
24 *there was a mistake, the Secretary shall publish*
25 *the correction.”.*

1 (b) *CONFORMING AMENDMENTS.*—Section 31112 is
2 amended—

3 (1) by inserting “126(e) or” before “127(d)” in
4 subsection (g)(1) (as redesignated by subsection (a) of
5 this section);

6 (2) by inserting “(or June 1, 2003, with respect
7 to highways described in subsection (f)(1))” after
8 “June 2, 1991” in subsection (g)(3) (as redesignated
9 by subsection (a) of this section); and

10 (3) by striking “Not later than June 15, 1992,
11 the Secretary” in subsection (h)(2) (as redesignated
12 by subsection (a) of this section) and inserting “The
13 Secretary”; and

14 (4) by inserting “or (f)” in subsection (h)(2) (as
15 redesignated by subsection (a) of this section) after
16 “subsection (d)”.

17 **SEC. 4245. APPLICATION OF SAFETY STANDARDS TO CER-**
18 **TAIN FOREIGN MOTOR CARRIERS.**

19 (a) *APPLICATION OF SAFETY STANDARDS.*—Section
20 30112 is amended—

21 (1) by striking “person” in subsection (a) and
22 inserting “person, including a foreign motor car-
23 rier,”; and

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

25 “(c) *DEFINITIONS.*—In this section:

1 “(1) *FOREIGN MOTOR CARRIER.*—The term ‘for-
2 *foreign motor carrier*’ has the meaning given that term
3 in section 13102 of this title.

4 “(2) *IMPORT.*—The term ‘import’ means trans-
5 port by any means into the United States, on a per-
6 manent or temporary basis, including the transpor-
7 tation of a motor vehicle into the United States for
8 the purpose of providing the transportation of cargo
9 or passengers.”.

10 (b) *REQUIREMENT FOR CERTIFICATE OF COMPLI-*
11 *ANCE.*—Section 30115 is amended by adding at the end the
12 *following:*

13 “(c) *APPLICATION TO FOREIGN MOTOR CARRIERS.*—

14 “(1) *IN GENERAL.*—The requirement for certifi-
15 cation described in subsection (a) shall apply to a for-
16 eign motor carrier that imports a motor vehicle or
17 motor vehicle equipment into the United States. Such
18 certification shall be made to the Secretary of Trans-
19 portation prior to the import of the vehicle or equip-
20 ment.

21 “(2) *DEFINITIONS.*—In this subsection:

22 “(A) *FOREIGN MOTOR CARRIER.*—The term
23 ‘foreign motor carrier’ has the meaning given
24 that term in section 13102 of this title.

1 “(B) *IMPORT.*—The term ‘import’ has the
2 meaning given that term in section 30112 of this
3 title.”.

4 (c) *TIME FOR COMPLIANCE.*—The amendments made
5 by sections (a) and (b) shall take effect on September 1,
6 2004.

7 **SEC. 4246. BACKGROUND CHECKS FOR MEXICAN AND CANA-**
8 **DIAN DRIVERS HAULING HAZARDOUS MATE-**
9 **RIALS.**

10 (a) *IN GENERAL.*—No commercial motor vehicle oper-
11 ator registered to operate in Mexico or Canada may operate
12 a commercial motor vehicle transporting a hazardous mate-
13 rial in commerce in the United States until the operator
14 has undergone a background records check similar to the
15 background records check required for commercial motor ve-
16 hicle operators licensed in the United States to transport
17 hazardous materials in commerce.

18 (b) *DEFINITIONS.*—In this section:

19 (1) *HAZARDOUS MATERIALS.*—The term “haz-
20 arduous material” means any material determined by
21 the Secretary of Transportation to be a hazardous
22 material for purposes of this section.

23 (2) *COMMERCIAL MOTOR VEHICLE.*—The term
24 “commercial motor vehicle” has the meaning given

1 (3) by striking “paragraph (2)” in the first sen-
2 tence of subsection (c) and inserting “an exemption
3 under paragraph (2) or (4)”.

4 **SEC. 4248. OPERATION OF COMMERCIAL MOTOR VEHICLES**
5 **TRANSPORTING AGRICULTURAL COMMOD-**
6 **ITIES AND FARM SUPPLIES.**

7 (a) *EXEMPTION FROM HOURS-OF-SERVICE REQUIRE-*
8 *MENTS.—*

9 (1) *IN GENERAL.—*Section 345(c) of the National
10 *Highway System Designation Act of 1995 (49 U.S.C.*
11 *31136 note), as amended by section 4247(3) of this*
12 *title, is amended by striking “paragraph (2) or (4)”*
13 *and inserting “paragraph (1), (2), or (4) of that sub-*
14 *section)”.*

15 (2) *APPLICABILITY.—*The exemption provided by
16 *section 345(a)(1) of the National Highway System*
17 *Designation Act of 1995 (49 U.S.C. 31136 note) shall*
18 *apply to a person transporting agricultural commod-*
19 *ities or farm supplies for agricultural purposes under*
20 *that section on and after the date of enactment of this*
21 *Act regardless of any action taken by the Secretary*
22 *of Transportation under section 345(c) of that Act be-*
23 *fore the date of enactment of this Act.*

1 (b) *DEFINITION OF AGRICULTURAL COMMODITY.*—*Sec-*
2 *tion 345(e) of the National Highway System Designation*
3 *Act of 1995 (49 U.S.C. 31136 note) is amended—*

4 (1) *by redesignating paragraphs (3), (4), (5),*
5 *and (6) as paragraphs (5), (6), (4), and (7), respec-*
6 *tively, and moving the paragraphs so as to appear in*
7 *numerical order; and*

8 (2) *by inserting after paragraph (2) the fol-*
9 *lowing:*

10 “(3) *AGRICULTURAL COMMODITY.*—*The term ‘ag-*
11 *ricultural commodity’ has the meaning given the term*
12 *in section 102 of the Agricultural Trade Act of 1978*
13 *(7 U.S.C. 5602).”.*

14 **SEC. 4249. SAFETY PERFORMANCE HISTORY SCREENING.**

15 (a) *IN GENERAL.*—*Subchapter III of chapter 311, as*
16 *amended by section 4228, is amended by adding at the end*
17 *the following:*

18 **“§ 31150. Safety performance history screening**

19 “(a) *IN GENERAL.*—*The Secretary of Transportation*
20 *shall provide companies conducting pre-employment screen-*
21 *ing services for the motor carrier industry electronic access*
22 *to—*

23 “(1) *commercial motor vehicle accident reports,*

24 “(2) *inspection reports that contain no driver-re-*
25 *lated safety violations, and*

1 “(3) *serious driver-related safety violation in-*
2 *spection reports that are contained in the Motor Car-*
3 *rier Management Information System.*

4 “(b) *ESTABLISHMENT.—Prior to making information*
5 *available to such companies under subsection (a), the Sec-*
6 *retary shall—*

7 “(1) *ensure that any information released is*
8 *done in accordance with the Fair Credit Reporting*
9 *Act (15 U.S.C. 1681 et seq.) and all applicable Fed-*
10 *eral laws;*

11 “(2) *require the driver applicant’s written con-*
12 *sent as a condition of releasing the information;*

13 “(3) *ensure that the information made available*
14 *to companies providing pre-employment screening*
15 *services is not released to any other unauthorized*
16 *company or individual, unless expressly authorized or*
17 *required by law; and*

18 “(4) *provide a procedure for drivers to remedy*
19 *incorrect information in a timely manner.*

20 “(c) *DESIGN.—To be eligible to have access to informa-*
21 *tion under subsection (a), a company conducting pre-em-*
22 *ployment screening services for the motor carrier industry*
23 *shall utilize a screening process—*

24 “(1) *that is designed to assist the motor carrier*
25 *industry in assessing an individual driver’s crash*

1 *and serious safety violation inspection history as a*
 2 *pre-employment condition;*

3 *“(2) the use of which is not mandatory; and*

4 *“(3) which is used only during the pre-employ-*
 5 *ment assessment of a driver-applicant.*

6 *“(d) SERIOUS DRIVER-RELATED SAFETY VIOLA-*
 7 *TIONS.—In this section, the term ‘serious driver-related*
 8 *safety violation’ means a violation listed in the North*
 9 *American Standard Driver Out-of-service Criteria that pro-*
 10 *hibits the continued operation of a commercial motor vehi-*
 11 *cle.”.*

12 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 13 *for chapter 311, as amended by section 4228, is amended*
 14 *by inserting after the item relating to section 31149 the fol-*
 15 *lowing:*

“31150. Safety performance history screening.”.

16 **SEC. 4250. COMPLIANCE REVIEW AUDIT.**

17 *Within 1 year after the date of enactment of this Act,*
 18 *the Inspector General for the Department of Transportation*
 19 *shall audit the compliance reviews performed by the Federal*
 20 *Motor Carrier Safety Administration in fiscal year 2003*
 21 *and submit a report to the Senate Committee on Commerce,*
 22 *Science, and Transportation and the House of Representa-*
 23 *tives Committee on Transportation and Infrastructure*
 24 *on—*

1 (1) *the enforcement actions taken as a result of*
2 *the compliance reviews, including fines, suspension or*
3 *revocation of operating authority, unsatisfactory rat-*
4 *ings, and follow-up actions to ensure compliance with*
5 *Federal motor carrier safety regulations;*

6 (2) *whether compliance reviews are or should be*
7 *performed on a corporate-wide basis for all affiliates*
8 *of the motor carrier selected for a compliance review*
9 *as a result of its Safety Status Measurement System*
10 *ranking or the submission of a complaint;*

11 (3) *whether the enforcement actions taken by the*
12 *Federal Motor Carrier Safety Administration are*
13 *adequate to assure future compliance of the motor*
14 *carrier with Federal safety regulations and what de-*
15 *terrent effect those enforcement actions may have in-*
16 *dustry-wide;*

17 (4) *whether the methodology for calculating the*
18 *crash rate of commercial motor vehicles in the Safety*
19 *Status Measurement System would be more appro-*
20 *priately based on the number of vehicle miles driven*
21 *by a motor carrier rather than the number of trucks*
22 *operated by the carrier;*

23 (5) *whether the public access information in the*
24 *Safety Status Measurement System meets the agency's*
25 *requirements under the Data Quality Act; and*

1 (6) *the existing information Selection System In-*
 2 *dicators criteria and weighting and whether the safe-*
 3 *ty evaluation area containing data on accidents*
 4 *should receive higher priority for compliance reviews*
 5 *and inspection selection.*

6 **PART III—UNIFIED CARRIER REGISTRATION**

7 **SEC. 4261. SHORT TITLE.**

8 *This part may be cited as the “Unified Carrier Reg-*
 9 *istration Act of 2004”.*

10 **SEC. 4262. RELATIONSHIP TO OTHER LAWS.**

11 *Except as provided in section 14504 of title 49, United*
 12 *States Code, and sections 14504a and 14506 of title 49,*
 13 *United States Code, as added by this part, this part is not*
 14 *intended to prohibit any State or any political subdivision*
 15 *of any State from enacting, imposing, or enforcing any law*
 16 *or regulation with respect to a motor carrier, motor private*
 17 *carrier, broker, freight forwarder, or leasing company that*
 18 *is not otherwise prohibited by law.*

19 **SEC. 4263. INCLUSION OF MOTOR PRIVATE AND EXEMPT**
 20 **CARRIERS.**

21 *(a) PERSONS REGISTERED TO PROVIDE TRANSPOR-*
 22 *TATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRI-*
 23 *VATE CARRIER.—Section 13905 is amended by—*

24 *(1) redesignating subsections (b), (c), (d), and (e)*
 25 *as subsections (c), (d), (e), and (f), respectively; and*

1 (2) *inserting after subsection (a) the following:*

2 “(b) *PERSON REGISTERED WITH SECRETARY.—Any*
3 *person having registered with the Secretary to provide*
4 *transportation or service as a motor carrier or motor pri-*
5 *vate carrier under this title, as in effect on January 1,*
6 *2002, but not having registered pursuant to section*
7 *13902(a) of this title, shall be deemed, for purposes of this*
8 *part, to be registered to provide such transportation or serv-*
9 *ice for purposes of sections 13908 and 14504a of this title.”.*

10 (b) *SECURITY REQUIREMENT.—Section 13906(a) is*
11 *amended by—*

12 (1) *redesignating paragraphs (2) and (3) as*
13 *paragraphs (3) and (4), respectively; and*

14 (2) *inserting the following:*

15 “(2) *SECURITY REQUIREMENT.—Not later than*
16 *120 days after the date of enactment of the Unified*
17 *Carrier Registration Act of 2004, any person, other*
18 *than a motor private carrier, registered with the Sec-*
19 *retary to provide transportation or service as a motor*
20 *carrier under section 13905(b) of this title shall file*
21 *with the Secretary a bond, insurance policy, or other*
22 *type of security approved by the Secretary, in an*
23 *amount not less than required by sections 31138 and*
24 *31139 of this title.”.*

1 **SEC. 4264. UNIFIED CARRIER REGISTRATION SYSTEM.**

2 (a) Section 13908 is amended to read as follows:

3 **“§ 13908. Registration and other reforms**

4 “(a) *ESTABLISHMENT OF UNIFIED CARRIER REG-*
5 *ISTRATION SYSTEM.*—*The Secretary, in cooperation with*
6 *the States, representatives of the motor carrier, motor pri-*
7 *vate carrier, freight forwarder and broker industries, and*
8 *after notice and opportunity for public comment, shall issue*
9 *within 1 year after the date of enactment of the Unified*
10 *Carrier Registration Act of 2004 regulations to establish,*
11 *an online, Federal registration system to be named the Uni-*
12 *fied Carrier Registration System to replace—*

13 “(1) *the current Department of Transportation*
14 *identification number system, the Single State Reg-*
15 *istration System under section 14504 of this title;*

16 “(2) *the registration system contained in this*
17 *chapter and the financial responsibility information*
18 *system under section 13906; and*

19 “(3) *the service of process agent systems under*
20 *sections 503 and 13304 of this title.*

21 “(b) *ROLE AS CLEARINGHOUSE AND DEPOSITORY OF*
22 *INFORMATION.*—*The Unified Carrier Registration System*
23 *shall serve as a clearinghouse and depository of information*
24 *on, and identification of, all foreign and domestic motor*
25 *carriers, motor private carriers, brokers, and freight for-*
26 *warders, and others required to register with the Depart-*

1 *ment, including information with respect to a carrier's safe-*
2 *ty rating, compliance with required levels of financial re-*
3 *sponsibility, and compliance with the provisions of section*
4 *14504a of this title. The Secretary shall ensure that Federal*
5 *agencies, States, representatives of the motor carrier indus-*
6 *try, and the public have access to the Unified Carrier Reg-*
7 *istration System, including the records and information*
8 *contained in the System.*

9 “(c) *PROCEDURES FOR CORRECTING INFORMATION.*—
10 *Not later than 60 days after the effective date of this section,*
11 *the Secretary shall prescribe regulations establishing proce-*
12 *dures that enable a motor carrier to correct erroneous infor-*
13 *mation contained in any part of the Unified Carrier Reg-*
14 *istration System.*

15 “(d) *FEE SYSTEM.*—*The Secretary shall establish,*
16 *under section 9701 of title 31, a fee system for the Unified*
17 *Carrier Registration System according to the following*
18 *guidelines:*

19 “(1) *REGISTRATION AND FILING EVIDENCE OF*
20 *FINANCIAL RESPONSIBILITY.*—*The fee for new reg-*
21 *istrants shall as nearly as possible cover the costs of*
22 *processing the registration and conducting the safety*
23 *audit or examination, if required, but shall not exceed*
24 *\$300.*

1 “(2) *EVIDENCE OF FINANCIAL RESPONSIB-*
2 *BILITY.—The fee for filing evidence of financial re-*
3 *sponsibility pursuant to this section shall not exceed*
4 *\$10 per filing. No fee shall be charged for a filing for*
5 *purposes of designating an agent for service of process*
6 *or the filing of other information relating to financial*
7 *responsibility.*

8 “(3) *ACCESS AND RETRIEVAL FEES.—*

9 “(A) *IN GENERAL.—Except as provided in*
10 *subparagraph (B), the fee system shall include a*
11 *nominal fee for the access to or retrieval of infor-*
12 *mation from the Unified Carrier Registration*
13 *System to cover the costs of operating and up-*
14 *grading the System, including the personnel*
15 *costs incurred by the Department and the costs*
16 *of administration of the Unified Carrier Reg-*
17 *istration Agreement.*

18 “(B) *EXCEPTIONS.—There shall be no fee*
19 *charged—*

20 “(i) *to any agency of the Federal Gov-*
21 *ernment or a State government or any po-*
22 *litical subdivision of any such government*
23 *for the access to or retrieval of information*
24 *and data from the Unified Carrier Reg-*
25 *istration System for its own use; or*

1 “(ii) to any representative of a motor
2 carrier, motor private carrier, leasing com-
3 pany, broker, or freight forwarder (as each
4 is defined in section 14504a of this title) for
5 the access to or retrieval of the individual
6 information related to such entity from the
7 Unified Carrier Registration System for the
8 individual use of such entity.”.

9 **SEC. 4265. REGISTRATION OF MOTOR CARRIERS BY STATES.**

10 (a) *TERMINATION OF REGISTRATION PROVISIONS.*—
11 Section 14504 is amended by adding at the end the fol-
12 lowing:

13 “(d) *TERMINATION OF PROVISIONS.*—Subsections (b)
14 and (c) shall cease to be effective on the first January 1st
15 occurring more than 12 months after the date of enactment
16 of the Unified Carrier Registration Act of 2004.”.

17 (b) *UNIFIED CARRIER REGISTRATION SYSTEM PLAN*
18 *AND AGREEMENT.*—Chapter 145 is amended by inserting
19 after section 14504 the following:

20 **“§ 14504a. Unified carrier registration system plan**
21 **and agreement**

22 “(a) *DEFINITIONS.*—In this section and section 14506
23 of this title:

24 “(1) *COMMERCIAL MOTOR VEHICLE.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the term ‘commercial motor*
3 *vehicle’ has the meaning given the term in sec-*
4 *tion 31101 of this title.*

5 “(B) *EXCEPTION.*—*With respect to motor*
6 *carriers required to make any filing or pay any*
7 *fee to a State with respect to the motor carrier’s*
8 *authority or insurance related to operation with-*
9 *in such State, the term ‘commercial motor vehi-*
10 *cle’ means any self-propelled vehicle used on the*
11 *highway in commerce to transport passengers or*
12 *property for compensation regardless of the gross*
13 *vehicle weight rating of the vehicle or the number*
14 *of passengers transported by such vehicle.*

15 “(2) *BASE-STATE.*—

16 “(A) *IN GENERAL.*—*The term ‘Base-State’*
17 *means, with respect to the Unified Carrier Reg-*
18 *istration Agreement, a State—*

19 “(i) *that is in compliance with the re-*
20 *quirements of subsection (e); and*

21 “(ii) *in which the motor carrier, motor*
22 *private carrier, broker, freight forwarder or*
23 *leasing company maintains its principal*
24 *place of business.*

1 “(B) *DESIGNATION OF BASE-STATE.*—A
2 *motor carrier, motor private carrier, broker,*
3 *freight forwarder or leasing company may des-*
4 *ignate another State in which it maintains an*
5 *office or operating facility as its Base-State in*
6 *the event that—*

7 “(i) *the State in which the motor car-*
8 *rier, motor private carrier, broker, freight*
9 *forwarder or leasing company maintains its*
10 *principal place of business is not in compli-*
11 *ance with the requirements of subsection (e);*
12 *or*

13 “(ii) *the motor carrier, motor private*
14 *carrier, broker, freight forwarder or leasing*
15 *company does not have a principal place of*
16 *business in the United States.*

17 “(3) *INTRASTATE FEE.*—*The term ‘intrastate fee’*
18 *means any fee, tax, or other type of assessment, in-*
19 *cluding per vehicle fees and gross receipts taxes, im-*
20 *posed on a motor carrier or motor private carrier for*
21 *the renewal of the intrastate authority or insurance*
22 *filings of such carrier with a State.*

23 “(4) *LEASING COMPANY.*—*The term ‘leasing com-*
24 *pany’ means a lessor that is engaged in the business*
25 *of leasing or renting for compensation motor vehicles*

1 *without drivers to a motor carrier, motor private car-*
2 *rier, or freight forwarder.*

3 “(5) *MOTOR CARRIER.*—*The term ‘motor carrier’*
4 *has the meaning given the term in section 13102(12)*
5 *of this title, but shall include all carriers that are oth-*
6 *erwise exempt from the provisions of part B of this*
7 *title pursuant to the provisions of chapter 135 of this*
8 *title or exemption actions by the former Interstate*
9 *Commerce Commission under this title.*

10 “(6) *PARTICIPATING STATE.*—*The term ‘partici-*
11 *partating state’ means a State that has complied with*
12 *the requirements of subsection (e) of this section.*

13 “(7) *SSRS.*—*The term ‘SSRS’ means the Single*
14 *State Registration System in effect on the date of en-*
15 *actment of the Unified Carrier Registration Act of*
16 *2004.*

17 “(8) *UNIFIED CARRIER REGISTRATION AGREE-*
18 *MENT.*—*The terms ‘Unified Carrier Registration*
19 *Agreement’ and ‘UCR Agreement’ mean the interstate*
20 *agreement developed under the Unified Carrier Reg-*
21 *istration Plan governing the collection and distribu-*
22 *tion of registration and financial responsibility infor-*
23 *mation provided and fees paid by motor carriers,*
24 *motor private carriers, brokers, freight forwarders and*
25 *leasing companies pursuant to this section.*

1 “(9) *UNIFIED CARRIER REGISTRATION PLAN.*—
2 *The terms ‘Unified Carrier Registration Plan’ and*
3 *‘UCR Plan’ mean the organization of State, Federal*
4 *and industry representatives responsible for devel-*
5 *oping, implementing and administering the Unified*
6 *Carrier Registration Agreement.*

7 “(10) *VEHICLE REGISTRATION.*—*The term ‘vehi-*
8 *cle registration’ means the registration of any com-*
9 *mercial motor vehicle under the International Reg-*
10 *istration Plan or any other registration law or regu-*
11 *lation of a jurisdiction.*

12 “(b) *APPLICABILITY OF PROVISIONS TO FREIGHT FOR-*
13 *WARDERS.*—*A Freight forwarder that operates commercial*
14 *motor vehicles and is not required to register as a carrier*
15 *pursuant to section 13903(b) of this title shall be subject*
16 *to the provisions of this section as if a motor carrier.*

17 “(c) *UNREASONABLE BURDEN.*—*For purposes of this*
18 *section, it shall be considered an unreasonable burden upon*
19 *interstate commerce for any State or any political subdivi-*
20 *sion of a State, or any political authority of 2 or more*
21 *States—*

22 “(1) *to enact, impose, or enforce any requirement*
23 *or standards, or levy any fee or charge on any inter-*
24 *state motor carrier or interstate motor private carrier*
25 *in connection with—*

1 “(A) the registration with the State of the
2 interstate operations of a motor carrier or motor
3 private carrier;

4 “(B) the filing with the State of informa-
5 tion relating to the financial responsibility of a
6 motor carrier or motor private carrier pursuant
7 to sections 31138 or 31139 of this title;

8 “(C) the filing with the State of the name
9 of the local agent for service of process of a motor
10 carrier or motor private carrier pursuant to sec-
11 tions 503 or 13304 of this title; or

12 “(D) the annual renewal of the intrastate
13 authority, or the insurance filings, of a motor
14 carrier or motor private carrier, or other intra-
15 state filing requirement necessary to operate
16 within the State, if the motor carrier or motor
17 private carrier is—

18 “(i) registered in compliance with sec-
19 tion 13902 or section 13905(b) of this title;
20 and

21 “(ii) in compliance with the laws and
22 regulations of the State authorizing the car-
23 rier to operate in the State pursuant to sec-
24 tion 14501(c)(2)(A) of this title

25 except with respect to—

1 “(I) intrastate service provided by
2 motor carriers of passengers that is not
3 subject to the preemptive provisions of
4 section 14501(a) of this title,

5 “(II) motor carriers of property,
6 motor private carriers, brokers, or
7 freight forwarders, or their services or
8 operations, that are described in sub-
9 paragraphs (B) and (C) of section
10 14501(c)(2) and section 14506(c)(3) or
11 permitted pursuant to section 14506(b)
12 of this title, and

13 “(III) the intrastate transpor-
14 tation of waste or recyclables by any
15 carrier); or

16 “(2) to require any interstate motor carrier or
17 motor private carrier to pay any fee or tax, not pro-
18 scribed by paragraph (1)(D) of this subsection, that
19 a motor carrier or motor private carrier that pays a
20 fee which is proscribed by that paragraph is not re-
21 quired to pay.

22 “(d) UNIFIED CARRIER REGISTRATION PLAN.—

23 “(1) BOARD OF DIRECTORS.—

24 “(A) GOVERNANCE OF PLAN.—The Unified
25 Carrier Registration Plan shall be governed by a

1 *Board of Directors consisting of representatives*
2 *of the Department of Transportation, Partici-*
3 *pating States, and the motor carrier industry.*

4 “(B) *NUMBER.*—*The Board shall consist of*
5 *15 directors.*

6 “(C) *COMPOSITION.*—*The Board shall be*
7 *composed of directors appointed as follows:*

8 “(i) *FEDERAL MOTOR CARRIER SAFETY*
9 *ADMINISTRATION.*—*The Secretary shall ap-*
10 *point 1 director from each of the Federal*
11 *Motor Carrier Safety Administration’s 4*
12 *Service Areas (as those areas were defined*
13 *by the Federal Motor Carrier Safety Ad-*
14 *ministration on January 1, 2003), from*
15 *among the chief administrative officers of*
16 *the State agencies responsible for overseeing*
17 *the administration of the UCR Agreement.*

18 “(ii) *STATE AGENCIES.*—*The Secretary*
19 *shall appoint 5 directors from the profes-*
20 *sional staffs of State agencies responsible for*
21 *overseeing the administration of the UCR*
22 *Agreement in their respective States. Nomi-*
23 *nees for these 5 directorships shall be sub-*
24 *mitted to the Secretary by the national as-*
25 *sociation of professional employees of the*

1 *State agencies responsible for overseeing the*
2 *administration of the UCR Agreement in*
3 *their respective States.*

4 “(iii) *MOTOR CARRIER INDUSTRY.—*
5 *The Secretary shall appoint 5 directors*
6 *from the motor carrier industry. At least 1*
7 *of the appointees shall be an employee of the*
8 *national trade association representing the*
9 *general motor carrier of property industry.*

10 “(iv) *DEPARTMENT OF TRANSPOR-*
11 *TATION.—The Secretary shall appoint the*
12 *Deputy Administrator of the Federal Motor*
13 *Carrier Safety Administration, or such*
14 *other presidential appointee from the*
15 *United States Department of Transpor-*
16 *tation, as the Secretary may designate, to*
17 *serve as a director.*

18 “(D) *CHAIRPERSON AND VICE-CHAIR-*
19 *PERSON.—The Secretary shall designate 1 direc-*
20 *tor as Chairperson and 1 director as Vice-Chair-*
21 *person of the Board. The Chairperson and Vice-*
22 *Chairperson shall serve in such capacity for the*
23 *term of their appointment as directors.*

24 “(E) *TERM.—In appointing the initial*
25 *Board, the Secretary shall designate 5 of the ap-*

1 *pointed directors for initial terms of 3 years, 5*
2 *of the appointed directors for initial terms of 2*
3 *years, and 5 of the appointed directors for ini-*
4 *tial terms of 1 year. Thereafter, all directors*
5 *shall be appointed for terms of 3 years, except*
6 *that the term of the Deputy Administrator or*
7 *other individual designated by the Secretary*
8 *under subparagraph (C)(iv) shall be at the dis-*
9 *cretion of the Secretary. A director may be ap-*
10 *pointed to succeed himself or herself. A director*
11 *may continue to serve on the Board until his or*
12 *her successor is appointed.*

13 “(2) *RULES AND REGULATIONS GOVERNING THE*
14 *UCR AGREEMENT.—The Board of Directors shall de-*
15 *velop the rules and regulations to govern the UCR*
16 *Agreement and submit such rules and regulations to*
17 *the Secretary for approval and adoption. The rules*
18 *and regulations shall—*

19 “(A) *prescribe uniform forms and formats,*
20 *for—*

21 “(i) *the annual submission of the in-*
22 *formation required by a Base-State of a*
23 *motor carrier, motor private carrier, leasing*
24 *company, broker, or freight forwarder;*

1 “(ii) the transmission of information
2 by a Participating State to the Unified
3 Carrier Registration System;

4 “(iii) the payment of excess fees by a
5 State to the designated depository and the
6 distribution of fees by the depository to
7 those States so entitled; and

8 “(iv) the providing of notice by a
9 motor carrier, motor private carrier, broker,
10 freight forwarder, or leasing company to the
11 Board of the intent of such entity to change
12 its Base-State, and the procedures for a
13 State to object to such a change under sub-
14 paragraph (C) of this paragraph;

15 “(B) provide for the administration of the
16 Unified Carrier Registration Agreement, includ-
17 ing procedures for amending the Agreement and
18 obtaining clarification of any provision of the
19 Agreement;

20 “(C) provide procedures for dispute resolu-
21 tion that provide due process for all involved
22 parties; and

23 “(D) designate a depository.

24 “(3) COMPENSATION AND EXPENSES.—Except for
25 the representative of the Department of Transpor-

1 *tation appointed pursuant to paragraph 1(D), no di-*
2 *rector shall receive any compensation or other benefits*
3 *from the Federal Government for serving on the*
4 *Board or be considered a Federal employee as a result*
5 *of such service. All Directors shall be reimbursed for*
6 *expenses they incur attending duly called meetings of*
7 *the Board. In addition, the Board may approve the*
8 *reimbursement of expenses incurred by members of*
9 *any subcommittee or task force appointed pursuant to*
10 *paragraph (5). The reimbursement of expenses to di-*
11 *rectors and subcommittee and task force members*
12 *shall be based on the then applicable rules of the Gen-*
13 *eral Service Administration governing reimbursement*
14 *of expenses for travel by Federal employees.*

15 *“(4) MEETINGS.—*

16 *“(A) IN GENERAL.—The Board shall meet*
17 *at least once per year. Additional meetings may*
18 *be called, as needed, by the Chairperson of the*
19 *Board, a majority of the directors, or the Sec-*
20 *retary.*

21 *“(B) QUORUM.—A majority of directors*
22 *shall constitute a quorum.*

23 *“(C) VOTING.—Approval of any matter be-*
24 *fore the Board shall require the approval of a*
25 *majority of all directors present at the meeting.*

1 “(D) *OPEN MEETINGS.*—*Meetings of the*
2 *Board and any subcommittees or task forces ap-*
3 *pointed pursuant to paragraph (5) of this sec-*
4 *tion shall be subject to the provisions of section*
5 *552b of title 5.*

6 “(5) *SUBCOMMITTEES.*—

7 “(A) *INDUSTRY ADVISORY SUB-*
8 *COMMITTEE.*—*The Chairperson shall appoint an*
9 *Industry Advisory Subcommittee. The Industry*
10 *Advisory Subcommittee shall consider any mat-*
11 *ter before the Board and make recommendations*
12 *to the Board.*

13 “(B) *OTHER SUBCOMMITTEES.*—*The Chair-*
14 *person shall appoint an Audit Subcommittee, a*
15 *Dispute Resolution Subcommittee, and any ad-*
16 *ditional subcommittees and task forces that the*
17 *Board determines to be necessary.*

18 “(C) *MEMBERSHIP.*—*The chairperson of*
19 *each subcommittee shall be a director. The other*
20 *members of subcommittees and task forces may*
21 *be directors or non-directors.*

22 “(D) *REPRESENTATION ON SUBCOMMIT-*
23 *TEES.*—*Except for the Industry Advisory Sub-*
24 *committee (the membership of which shall consist*
25 *solely of representatives of entities subject to the*

1 *fee requirements of subsection (f) of this section),*
2 *each subcommittee and task force shall include*
3 *representatives of the Federal Motor Carrier*
4 *Safety Administration, the Participating States,*
5 *and the motor carrier industry.*

6 “(6) *DELEGATION OF AUTHORITY.—The Board*
7 *may contract with any private commercial or non-*
8 *profit entity or any agency of a State to perform ad-*
9 *ministrative functions required under the Unified*
10 *Carrier Registration Agreement, but may not delegate*
11 *its decision or policy-making responsibilities.*

12 “(7) *DETERMINATION OF FEES.—The Board*
13 *shall determine the annual fees to be assessed carriers,*
14 *leasing companies, brokers, and freight forwarders*
15 *pursuant to the Unified Carrier Registration Agree-*
16 *ment. In determining the level of fees to be assessed*
17 *in the next Agreement year, the Board shall con-*
18 *sider—*

19 “(A) *the administrative costs associated*
20 *with the Unified Carrier Registration Plan and*
21 *the Agreement;*

22 “(B) *whether the revenues generated in the*
23 *previous year and any surplus or shortage from*
24 *that or prior years enable the Participating*

1 *States to achieve the revenue levels set by the*
2 *Board; and*

3 “(C) *the parameters for fees set forth in sub-*
4 *section (f)(1).*

5 “(8) *LIABILITY PROTECTIONS FOR DIRECTORS.—*
6 *No individual appointed to serve on the Board shall*
7 *be liable to any other director or to any other party*
8 *for harm, either economic or non-economic, caused by*
9 *an act or omission of the individual arising from the*
10 *individual’s service on the Board if—*

11 “(A) *the individual was acting within the*
12 *scope of his or her responsibilities as a director;*
13 *and*

14 “(B) *the harm was not caused by willful or*
15 *criminal misconduct, gross negligence, reckless*
16 *misconduct, or a conscious, flagrant indifference*
17 *to the right or safety of the party harmed by the*
18 *individual.*

19 “(9) *INAPPLICABILITY OF FEDERAL ADVISORY*
20 *COMMITTEE ACT.—The Federal Advisory Committee*
21 *Act (5 U.S.C. App.) shall not apply to the Unified*
22 *Carrier Registration Plan or its committees.*

23 “(10) *CERTAIN FEES NOT AFFECTED.—This sec-*
24 *tion does not limit the amount of money a State may*
25 *charge for vehicle registration or the amount of any*

1 *fuel use tax a State may impose pursuant to the*
2 *International Fuel Tax Agreement.*

3 “(e) *STATE PARTICIPATION.*—

4 “(1) *STATE PLAN.*—No State shall be eligible to
5 *participate in the Unified Carrier Registration Plan*
6 *or to receive any revenues derived under the Agree-*
7 *ment, unless the State submits to the Secretary, not*
8 *later than 3 years after the date of enactment of the*
9 *Unified Carrier Registration Act of 2004, a plan—*

10 “(A) *identifying the State agency that has*
11 *or will have the legal authority, resources, and*
12 *qualified personnel necessary to administer the*
13 *Unified Carrier Registration Agreement in ac-*
14 *cordance with the rules and regulations promul-*
15 *gated by the Board of Directors of the Unified*
16 *Carrier Registration Plan; and*

17 “(B) *containing assurances that an amount*
18 *at least equal to the revenue derived by the State*
19 *from the Unified Carrier Registration Agreement*
20 *shall be used for motor carrier safety programs,*
21 *enforcement, and financial responsibility, or the*
22 *administration of the UCR Plan and UCR*
23 *Agreement.*

24 “(2) *AMENDED PLANS.*—A State may change the
25 *agency designated in the plan submitted under this*

1 subsection by filing an amended plan with the Sec-
2 retary and the Chairperson of the Unified Carrier
3 Registration Plan.

4 “(3) *WITHDRAWAL OF PLAN.*—In the event a
5 State withdraws, or notifies the Secretary that it is
6 withdrawing, the plan submitted under this sub-
7 section, the State may no longer participate in the
8 Unified Carrier Registration Agreement or receive
9 any portion of the revenues derived under the Agree-
10 ment.

11 “(4) *TERMINATION OF ELIGIBILITY.*—If a State
12 fails to submit a plan to the Secretary as required by
13 paragraph (1) or withdraws its plan under para-
14 graph (3), the State shall be prohibited from subse-
15 quently submitting or resubmitting a plan or partici-
16 pating in the Agreement.

17 “(5) *PROVISION OF PLAN TO CHAIRPERSON.*—
18 The Secretary shall provide a copy of each plan sub-
19 mitted under this subsection to the initial Chair-
20 person of the Board of Directors of the Unified Car-
21 rier Registration Plan not later than 90 days of ap-
22 pointing the Chairperson.

23 “(f) *CONTENTS OF UNIFIED CARRIER REGISTRATION*
24 *AGREEMENT.*—The Unified Carrier Registration Agree-
25 ment shall provide the following:

1 “(1) *DETERMINATION OF FEES.*—

2 “(A) *Fees charged motor carriers, motor*
3 *private carriers, or freight forwarders in connec-*
4 *tion with the filing of proof of financial respon-*
5 *sibility under the UCR Agreement shall be based*
6 *on the number of commercial motor vehicles*
7 *owned or operated by the motor carrier, motor*
8 *private carrier, or freight forwarder. Brokers*
9 *and leasing companies shall pay the same fees as*
10 *the smallest bracket of motor carriers, motor pri-*
11 *vate carriers, and freight forwarders.*

12 “(B) *The fees shall be determined by the*
13 *Board with the approval of the Secretary.*

14 “(C) *The Board shall develop no more than*
15 *6 and no less than 4 ranges of carriers by size*
16 *of fleet.*

17 “(D) *The fee scale shall be progressive and*
18 *use different vehicle ratios for different ranges of*
19 *carrier fleet size.*

20 “(E) *The Board may adjust the fees within*
21 *a reasonable range on an annual basis if the rev-*
22 *enues derived from the fees—*

23 “(i) *are insufficient to provide the rev-*
24 *enues to which the States are entitled under*
25 *this section; or*

1 “(ii) exceed those revenues.

2 “(2) *DETERMINATION OF OWNERSHIP OR OPER-*
3 *ATION.—Commercial motor vehicles owned or oper-*
4 *ated by a motor carrier, motor private carrier, or*
5 *freight forwarder shall mean those commercial motor*
6 *vehicles registered in the name of the motor carrier,*
7 *motor private carrier, or freight forwarder or con-*
8 *trolled by the motor carrier, motor private carrier, or*
9 *freight forwarder under a long term lease during a*
10 *vehicle registration year.*

11 “(3) *CALCULATION OF NUMBER OF COMMERCIAL*
12 *MOTOR VEHICLES OWNED OR OPERATED.—The num-*
13 *ber of commercial motor vehicles owned or operated*
14 *by a motor carrier, motor private carrier, or freight*
15 *forwarder for purposes of subsection (e)(1) shall be*
16 *based either on the number of commercial motor vehi-*
17 *cles the motor carrier, motor private carrier, or*
18 *freight forwarder has indicated it operates on its most*
19 *recently filed MCS-150 or the total number of such*
20 *vehicles it owned or operated for the 12-month period*
21 *ending on June 30 of the year immediately prior to*
22 *the each registration year of the Unified Carrier Reg-*
23 *istration System.*

24 “(4) *PAYMENT OF FEES.—Motor carriers, motor*
25 *private carriers, leasing companies, brokers, and*

1 *freight forwarders shall pay all fees required under*
2 *this section to their Base-State pursuant to the UCR*
3 *Agreement.*

4 “(g) *PAYMENT OF FEES.—Revenues derived under the*
5 *UCR Agreement shall be allocated to Participating States*
6 *as follows:*

7 “(1) *A State that participated in the Single*
8 *State Registration System in the last calendar year*
9 *ending before the date of enactment of the Unified*
10 *Carrier Registration Act of 2004 and complies with*
11 *the requirements of subsection (e) of this section is en-*
12 *titled to receive a portion of the UCR Agreement reve-*
13 *nuces generated under the Agreement equivalent to the*
14 *revenues it received under the SSRS in the last cal-*
15 *endar year ending before the date of enactment of the*
16 *Unified Carrier Registration Act of 2004, as long as*
17 *the State continues to comply with the provisions of*
18 *subsection (e).*

19 “(2) *A State that collected intrastate registration*
20 *fees from interstate motor carriers, interstate motor*
21 *private carriers, or interstate exempt carriers and*
22 *complies with the requirements of subsection (e) of*
23 *this section is entitled to receive an additional por-*
24 *tion of the UCR Agreement revenues generated under*
25 *the Agreement equivalent to the revenues it received*

1 *from such interstate carriers in the last calendar year*
2 *ending before the date of enactment of the Unified*
3 *Carrier Registration Act of 2004, as long as the State*
4 *continues to comply with the provisions of subsection*
5 *(e).*

6 “(3) *States that comply with the requirements of*
7 *subsection (e) of this section but did not participate*
8 *in SSRS during the last calendar year ending before*
9 *the date of enactment of the Unified Carrier Registra-*
10 *tion Act of 2004 shall be entitled to an annual allot-*
11 *ment not to exceed \$500,000 from the UCR Agreement*
12 *revenues generated under the Agreement as long as the*
13 *State continues to comply with the provisions of sub-*
14 *section (e).*

15 “(4) *The amount of UCR Agreement revenues to*
16 *which a State is entitled under this section shall be*
17 *calculated by the Board and approved by the Sec-*
18 *retary.*

19 “(h) *DISTRIBUTION OF UCR AGREEMENT REVE-*
20 *NUES.—*

21 “(1) *ELIGIBILITY.—Each State that is in com-*
22 *pliance with the provisions of subsection (e) shall be*
23 *entitled to a portion of the revenues derived from the*
24 *UCR Agreement in accordance with subsection (g).*

1 “(2) *ENTITLEMENT TO REVENUES.*—A State that
2 is in compliance with the provisions of subsection (e)
3 may retain an amount of the gross revenues it collects
4 from motor carriers, motor private carriers, brokers,
5 freight forwarders and leasing companies under the
6 UCR Agreement equivalent to the portion of revenues
7 to which the State is entitled under subsection (g). All
8 revenues a Participating State collects in excess of the
9 amount to which the State is so entitled shall be for-
10 warded to the depository designated by the Board
11 under subsection (d)(2)(D).

12 “(3) *DISTRIBUTION OF FUNDS FROM DEPOSI-*
13 *TORY.*—The excess funds collected in the depository
14 shall be distributed as follows:

15 “(A) *Excess funds shall be distributed on a*
16 *pro rata basis to each Participating State that*
17 *did not collect revenues under the UCR Agree-*
18 *ment equivalent to the amount such State is en-*
19 *titled under subsection (g), except that the sum*
20 *of the gross UCR Agreement revenues collected by*
21 *a Participating State and the amount distrib-*
22 *uted to it from the depository shall not exceed the*
23 *amount to which the State is entitled under sub-*
24 *section (g).*

1 “(B) Any excess funds held by the deposi-
2 tory after all distributions under subparagraph
3 (A) have been made shall be used to pay the ad-
4 ministrative costs of the UCR Plan and the UCR
5 Agreement.

6 “(C) Any excess funds held by the deposi-
7 tory after distributions and payments under sub-
8 paragraphs (A) and (B) shall be retained in the
9 depository, and the UCR Agreement fees for
10 motor carriers, motor private carriers, leasing
11 companies, freight forwarders, and brokers for
12 the next fee year shall be reduced by the Board
13 accordingly.

14 “(i) ENFORCEMENT.—

15 “(1) CIVIL ACTIONS.—Upon request by the Sec-
16 retary of Transportation, the Attorney General may
17 bring a civil action in a court of competent jurisdic-
18 tion to enforce compliance with this section and with
19 the terms of the Unified Carrier Registration Agree-
20 ment.

21 “(2) VENUE.—An action under this section may
22 be brought only in the Federal court sitting in the
23 State in which an order is required to enforce such
24 compliance.

1 “(3) *RELIEF*.—Subject to section 1341 of title
2 28, the court, on a proper showing—

3 “(A) shall issue a temporary restraining
4 order or a preliminary or permanent injunction;
5 and

6 “(B) may issue an injunction requiring
7 that the State or any person comply with this
8 section.

9 “(4) *ENFORCEMENT BY STATES*.—Nothing in
10 this section—

11 “(A) prohibits a Participating State from
12 issuing citations and imposing reasonable fines
13 and penalties pursuant to applicable State laws
14 and regulations on any motor carrier, motor pri-
15 vate carrier, freight forwarder, broker, or leasing
16 company for failure to—

17 “(i) submit documents as required
18 under subsection (d)(2); or

19 “(ii) pay the fees required under sub-
20 section (f); or

21 “(B) authorizes a State to require a motor
22 carrier, motor private carrier, or freight for-
23 warder to display as evidence of compliance any
24 form of identification in excess of those permitted

1 *under section 14506 of this title on or in a com-*
2 *mercial motor vehicle.*

3 “(j) *APPLICATION TO INTRASTATE CARRIERS.*—Not-
4 *withstanding any other provision of this section, a State*
5 *may elect to apply the provisions of the UCR Agreement*
6 *to motor carriers and motor private carriers subject to its*
7 *jurisdiction that operate solely in intrastate commerce*
8 *within the borders of the State.”.*

9 **SEC. 4266. IDENTIFICATION OF VEHICLES.**

10 *Chapter 145 is amended by adding at the end the fol-*
11 *lowing:*

12 **“§ 14506. Identification of vehicles**

13 “(a) *RESTRICTION ON REQUIREMENTS.*—No State, po-
14 *litical subdivision of a State, interstate agency, or other po-*
15 *litical agency of 2 or more States may enact or enforce any*
16 *law, rule, regulation standard, or other provision having*
17 *the force and effect of law that requires a motor carrier,*
18 *motor private carrier, freight forwarder, or leasing com-*
19 *pany to display any form of identification on or in a com-*
20 *mercial motor vehicle, other than forms of identification re-*
21 *quired by the Secretary of Transportation under section*
22 *390.21 of title 49, Code of Federal Regulations.*

23 “(b) *EXCEPTION.*—Notwithstanding paragraph (a), a
24 *State may continue to require display of credentials that*
25 *are required—*

1 “(1) under the International Registration Plan
2 under section 31704 of this title;

3 “(2) under the International Fuel Tax Agree-
4 ment under section 31705 of this title;

5 “(3) in connection with Federal requirements for
6 hazardous materials transportation under section
7 5103 of this title; or

8 “(4) in connection with the Federal vehicle in-
9 spection standards under section 31136 of this title.”.

10 **SEC. 4267. USE OF UCR AGREEMENT REVENUES AS MATCH-**
11 **ING FUNDS.**

12 Section 31103(a) is amended by inserting “Amounts
13 generated by the Unified Carrier Registration Agreement,
14 under section 14504a of this title and received by a State
15 and used for motor carrier safety purposes may be included
16 as part of the State’s share not provided by the United
17 States.” after “United States Government.”.

18 **SEC. 4268. CLERICAL AMENDMENTS.**

19 (a) **SECTION 13906 CAPTION.**—The section caption for
20 section 13906 is amended by inserting “**motor private**
21 **carriers,**” after “**motor carriers,**”.

22 (b) **TABLE OF CONTENTS.**—The chapter analysis for
23 chapter 139 is amended by striking the item relating to sec-
24 tion 13906 and inserting the following:

“13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.”.

1 **Subtitle C—Household Goods**
2 **Movers**

3 **SEC. 4301. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED**
4 **STATES CODE.**

5 (a) *SHORT TITLE.*—This subtitle may be cited as the
6 “Household Goods Mover Oversight Enforcement and Re-
7 form Act of 2004”.

8 (b) *AMENDMENT OF TITLE 49, UNITED STATES*
9 *CODE.*—Except as otherwise specifically provided, whenever
10 in this subtitle an amendment is expressed in terms of an
11 amendment to a section or other provision of law, the ref-
12 erence shall be considered to be made to a section or other
13 provision of title 49, United States Code.

14 **SEC. 4302. FINDINGS; SENSE OF CONGRESS.**

15 *The Congress finds the following:*

16 (1) *There are approximately 1,500,000 interstate*
17 *household moves every year. While the vast majority*
18 *of these interstate moves are completed successfully,*
19 *consumer complaints have been increasing since the*
20 *Interstate Commerce Commission was abolished in*
21 *1996 and oversight of the household goods industry*
22 *was transferred to the Department of Transportation.*

23 (2) *While the overwhelming majority of house-*
24 *hold goods carriers are honest and operate within the*
25 *law, there appears to be a growing criminal element*

1 *that is exploiting a perceived void in Federal and*
2 *State enforcement efforts. The growing criminal ele-*
3 *ment tends to prey upon consumers.*

4 (3) *The movement of an individual's household*
5 *goods is unique and differs from the movement of a*
6 *commercial shipment. A consumer may utilize a mov-*
7 *ing company once or twice in the consumer's lifetime*
8 *and entrust virtually all of the consumer's worldly*
9 *goods to a mover.*

10 (4) *Federal resources are inadequate to properly*
11 *police or deter, on a nationwide basis, those movers*
12 *who willfully violate Federal regulations governing*
13 *the household goods industry and knowingly prey on*
14 *consumers who are in a vulnerable position. It is ap-*
15 *propriate that a Federal-State partnership be created*
16 *to enhance enforcement against fraudulent moving*
17 *companies.*

18 **SEC. 4303. DEFINITIONS.**

19 *In this title, the terms "carrier", "household goods",*
20 *"motor carrier", "Secretary", and "transportation" have*
21 *the meaning given such terms in section 13102 of title 49,*
22 *United States Code.*

23 **SEC. 4304. PAYMENT OF RATES.**

24 *Section 13707(b) is amended by adding at the end the*
25 *following:*

1 “(3) *SHIPMENTS OF HOUSEHOLD GOODS.*—

2 “(A) *IN GENERAL.*—*A carrier providing*
3 *transportation for a shipment of household goods*
4 *shall give up possession of the household goods*
5 *transported at the destination upon payment*
6 *of—*

7 “(i) *100 percent of the charges con-*
8 *tained in a binding estimate provided by*
9 *the carrier;*

10 “(ii) *not more than 110 percent of the*
11 *charges contained in a nonbinding estimate*
12 *provided by the carrier; or*

13 “(iii) *in the case of a partial delivery*
14 *of the shipment, the prorated percentage of*
15 *the charges calculated in accordance with*
16 *subparagraph (B).*

17 “(B) *CALCULATION OF PRORATED*
18 *CHARGES.*—*For purposes of subparagraph*
19 *(A)(iii), the prorated percentage of the charges*
20 *shall be the percentage of the total charges due to*
21 *the carrier as described in clause (i) or (ii) of*
22 *subparagraph (A) that is equal to the percentage*
23 *of the weight of that portion of the shipment de-*
24 *livered to the total weight of the shipment.*

1 “(C) *POST-CONTRACT SERVICES*.—Subpara-
2 *graph (A) does not apply to additional services*
3 *requested by a shipper after the contract of serv-*
4 *ice is executed that were not included in the esti-*
5 *mate.*

6 “(D) *IMPRACTICABLE OPERATIONS*.—Sub-
7 *paragraph (A) does apply to impracticable oper-*
8 *ations, as defined by the applicable carrier tariff,*
9 *if the shipper agrees to pay the charges for such*
10 *operations within 30 days after the goods are de-*
11 *livered.”.*

12 **SEC. 4305. HOUSEHOLD GOODS CARRIER OPERATIONS.**

13 *Section 14104 is amended—*

14 *(1) by striking paragraph (1) of subsection (b)*
15 *and inserting the following:*

16 “(1) *REQUIREMENT FOR WRITTEN ESTIMATE*.—A
17 *motor carrier providing transportation of household*
18 *goods subject to jurisdiction under subchapter I of*
19 *chapter 135 shall provide to a prospective shipper a*
20 *written estimate of all charges related to the transpor-*
21 *tation of the household goods, including charges for—*

22 “(A) *packing;*

23 “(B) *unpacking;*

24 “(C) *loading;*

25 “(D) *unloading; and*

1 “(E) handling of the shipment from the
2 point of origin to the final destination (whether
3 that destination is storage or transit).”;

4 (2) by redesignating paragraph (2) of such sub-
5 section as paragraph (4); and

6 (3) by inserting after paragraph (1), as amended
7 by paragraph (1), the following:

8 “(2) *OTHER INFORMATION.*—At the time that a
9 motor carrier provides the written estimate required
10 by paragraph (1), the motor carrier shall provide the
11 shipper a copy of the Department of Transportation
12 publication *FMCSA–ESA–03–005* (or its successor
13 edition or publication) entitled ‘Ready to Move?’. Be-
14 fore the execution of a contract for service, a motor
15 carrier shall provide the shipper a copy of the De-
16 partment of Transportation publication *OCE 100*, en-
17 titled ‘Your Rights and Responsibilities When You
18 Move’ required by section 375.2 of title 49, Code of
19 Federal Regulations (or any corresponding similar
20 regulation).

21 “(3) *BINDING AND NONBINDING ESTIMATES.*—
22 The written estimate required by paragraph (1) may
23 be either binding or nonbinding. The written estimate
24 shall be based on a visual inspection of the household
25 goods if the household goods are located within a 50-

1 *mile radius of the location of the carrier’s household*
2 *goods agent preparing the estimate. The Secretary*
3 *may not prohibit any such carrier from charging a*
4 *prospective shipper for providing a written, binding*
5 *estimate for the transportation and related services.”;*

6 *(4) by redesignating subsection (c) as subsection*
7 *(e); and*

8 *(5) by inserting after subsection (b), as amended*
9 *by paragraphs (1) and (2), the following:*

10 *“(c) NOTIFICATION OF FINAL CHARGES.—If the final*
11 *charges for a shipment of household goods exceed 100 per-*
12 *cent of a binding estimate or 110 percent of a nonbinding*
13 *estimate, the motor carrier shall provide the shipper an*
14 *itemized statement of the charges. The statement shall be*
15 *provided to the shipper within 24 hours prior to the deliv-*
16 *ery of the shipment unless the shipper waives this require-*
17 *ment or the shipper cannot be reached by fax, regular mail,*
18 *or electronic mail. Such notification shall—*

19 *“(1) be delivered in writing at the motor car-*
20 *rier’s expense; and*

21 *“(2) disclose the requirements of section*
22 *13707(b)(3) of this title regarding payment for deliv-*
23 *ery of a shipment of household goods.*

24 *“(d) REQUIREMENT FOR INVENTORY.—A motor car-*
25 *rier providing transportation of a shipment of household*

1 goods, as defined in section 13102(10), that is subject to
2 jurisdiction under subchapter I of chapter 135 of this title
3 shall, before or at the time of loading the shipment, prepare
4 a written inventory of all articles tendered and accepted
5 by the motor carrier for transportation. Such inventory
6 shall—

7 “(1) list or otherwise reasonably identify each
8 item tendered for transportation;

9 “(2) be signed by the shipper and the motor car-
10 rier, or the agent of the shipper or carrier, at the time
11 the shipment is loaded and at the time the shipment
12 is unloaded at the final destination;

13 “(3) be attached to, and considered part of, the
14 bill of lading; and

15 “(4) be subject to the same requirements of the
16 Secretary for record inspection and preservation that
17 apply to bills of lading.”.

18 **SEC. 4306. LIABILITY OF CARRIERS UNDER RECEIPTS AND**

19 **BILLS OF LADING.**

20 *Section 14706(f) is amended—*

21 (1) by resetting the text as a paragraph indented
22 2 ems from the left margin and inserting “(1) IN
23 GENERAL.—” before “A carrier”; and

24 (2) by adding at the end, the following:

1 “(2) *FULL VALUE PROTECTION OBLIGATION.*—
 2 *Unless the carrier receives a waiver in writing under*
 3 *paragraph (3), a carrier’s maximum liability for*
 4 *household goods that are lost, damaged, destroyed, or*
 5 *otherwise not delivered to the final destination is an*
 6 *amount equal to the replacement value of such goods,*
 7 *subject to a maximum amount equal to the declared*
 8 *value of the shipment, subject to rules issued by the*
 9 *Surface Transportation Board and applicable tariffs.*

10 “(3) *APPLICATION OF RATES.*—*The released rates*
 11 *established by the Board under paragraph (1) (com-*
 12 *monly known as ‘released rates’) shall not apply to*
 13 *the transportation of household goods by a carrier un-*
 14 *less the liability of the carrier for the full value of*
 15 *such household goods under paragraph (2) is waived*
 16 *in writing by the shipper.”.*

17 **SEC. 4307. DISPUTE SETTLEMENT FOR SHIPMENTS OF**
 18 **HOUSEHOLD GOODS.**

19 (a) *IN GENERAL.*—*Section 14708(a) is amended—*

20 (1) *by resetting the text as a paragraph indented*
 21 *2 ems from the left margin and inserting “(1) RE-*
 22 *QUIREMENT TO OFFER.—” before “As a condition”;*
 23 *and*

24 (2) *by striking “shippers of household goods con-*
 25 *cerning damage or loss to the household goods trans-*

1 ported.” and inserting “shippers. The carrier may not
2 require the shipper to agree to use arbitration as a
3 means to settle such a dispute.”; and

4 (3) by inserting at the end, the following:

5 “(2) *REQUIREMENTS FOR CARRIERS.*—If a dis-
6 pute with a carrier providing transportation of
7 household goods involves a claim that is—

8 “(A) not more than \$10,000 and the shipper
9 requests arbitration, such arbitration shall be
10 binding on the parties; or

11 “(B) for more than \$10,000 and the shipper
12 requests arbitration, such arbitration shall be
13 binding on the parties only if the carrier agrees
14 to arbitration.”.

15 (b) *ARBITRATION REQUIREMENTS.*—

16 (1) *IN GENERAL.*—Section 14708(b) is amend-
17 ed—

18 (A) by striking paragraph (4) and inserting
19 the following:

20 “(4) *INDEPENDENCE OF ARBITRATOR.*—The Sec-
21 retary shall establish a system for the certification of
22 persons authorized to arbitrate or otherwise settle a
23 dispute between a shipper of household goods and a
24 carrier. The Secretary shall ensure that each person
25 so certified is—

1 “(A) independent of the parties to the dis-
2 pute;

3 “(B) capable, as determined under such reg-
4 ulations as the Secretary may issue, to resolve
5 such disputes fairly and expeditiously; and

6 “(C) authorized and able to obtain from the
7 shipper or carrier any material and relevant in-
8 formation to the extent necessary to carry out a
9 fair and expeditious decisionmaking process.”;

10 (B) by striking paragraph (6); and

11 (C) by redesignating paragraphs (7) and
12 (8) as paragraphs (6) and (7), respectively.

13 (2) CONFORMING AMENDMENT.—Section
14 14708(d)(3)(A) is amended by striking “(b)(8)” and
15 inserting “(b)(7)”.

16 (c) ATTORNEY’S FEES TO CARRIERS.—Section
17 14708(e) is further amended by striking “only if” and all
18 that follows through the period at the end and inserting
19 “if—

20 “(1) the court proceeding is to enforce a decision
21 rendered in favor of the carrier through arbitration
22 under this section and is instituted after the shipper
23 has a reasonable opportunity to pay any charges re-
24 quired by such decision; or

1 “(2) *the shipper brought such action in bad*
2 *faith—*

3 “(A) *after resolution of such dispute through*
4 *arbitration under this section; or*

5 “(B) *after institution of an arbitration pro-*
6 *ceeding by the shipper to resolve such dispute*
7 *under this section but before—*

8 “(i) *the period provided under sub-*
9 *section (b)(7) for resolution of such dispute*
10 *(including, if applicable, an extension of*
11 *such period under such subsection) ends;*
12 *and*

13 “(ii) *a decision resolving such dispute*
14 *is rendered.”.*

15 (d) *REVIEW AND REPORT ON DISPUTE SETTLEMENT*
16 *PROGRAMS.—*

17 (1) *REVIEW AND REPORT.—Not later than 18*
18 *months after the date of enactment of this Act, the*
19 *Secretary of Transportation shall complete a review*
20 *of the outcomes and the effectiveness of the programs*
21 *carried out under title 49, United States Code, to set-*
22 *tle disputes between motor carriers and shippers and*
23 *submit a report on the review to the Senate Com-*
24 *mittee on Commerce, Science, and Transportation*
25 *and the House of Representatives Committee on*

1 *Transportation and Infrastructure. The report shall*
2 *describe—*

3 *(A) the subject of, and amounts at issue is,*
4 *the disputes;*

5 *(B) patterns in disputes or settlements;*

6 *(C) the prevailing party in disputes, if*
7 *identifiable; and*

8 *(D) any other matters the Secretary con-*
9 *siders appropriate.*

10 (2) *REQUIREMENT FOR PUBLIC COMMENT.—The*
11 *Secretary shall publish notice of the review required*
12 *by paragraph (1) and provide an opportunity for the*
13 *public to submit comments on the effectiveness of such*
14 *programs. Notwithstanding any confidentiality or*
15 *non-disclosure provision in a settlement agreement be-*
16 *tween a motor carrier and a shipper, it shall not be*
17 *a violation of that provision for a motor carrier or*
18 *shipper to submit a copy of the settlement agreement,*
19 *or to provide information included in the agreement,*
20 *to the Secretary for use in evaluating dispute settle-*
21 *ment programs under this subsection. Notwith-*
22 *standing anything to the contrary in section 552 of*
23 *title 5, United States Code, the Secretary may not*
24 *post on the Department of Transportation’s electronic*
25 *docket system, or make available to any requester in*

1 *paper or electronic format, any information sub-*
2 *mitted to the Secretary by a motor carrier or shipper*
3 *under the preceding sentence. The Secretary shall use*
4 *the settlement agreements or other information sub-*
5 *mitted by a motor carrier or shipper solely to evalu-*
6 *ate the effectiveness of dispute settlement programs*
7 *and shall not include in the report required by this*
8 *subsection the names or, or other identifying informa-*
9 *tion concerning, motor carriers or shippers that sub-*
10 *mitted comments or information under this sub-*
11 *section.*

12 **SEC. 4308. ENFORCEMENT OF REGULATIONS RELATED TO**
13 **TRANSPORTATION OF HOUSEHOLD GOODS.**

14 *(a) NONPREEMPTION OF INTRASTATE TRANSPOR-*
15 *TATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B)*
16 *is amended by inserting “intrastate” before “transpor-*
17 *tation”.*

18 *(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT*
19 *TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—*

20 *(1) IN GENERAL.—Chapter 147 is amended by*
21 *adding at the end the following:*

1 **“§ 14710. Enforcement of Federal laws and regula-**
2 **tions with respect to transportation of**
3 **household goods**

4 “(a) *ENFORCEMENT BY STATES.*—Notwithstanding
5 any other provision of this title, a State authority may en-
6 force the consumer protection provisions, as determined by
7 the Secretary of Transportation, of this title that are related
8 to the transportation of household goods in interstate com-
9 merce. Any fine or penalty imposed on a carrier in a pro-
10 ceeding under this subsection shall, notwithstanding any
11 provision of law to the contrary, be paid to and retained
12 by the State.

13 “(b) *STATE AUTHORITY DEFINED.*—The term ‘State
14 authority’ means an agency of a State that has authority
15 under the laws of the State to regulate the intrastate move-
16 ment of household goods.

17 **“§ 14711. Enforcement by State attorneys general**

18 “(a) *IN GENERAL.*—A State, as *parens patriae*, may
19 bring a civil action on behalf of its residents in an appro-
20 priate district court of the United States to enforce the con-
21 sumer protection provisions, as determined by the Secretary
22 of Transportation, of this title that are related to the trans-
23 portation of household goods in interstate commerce, or reg-
24 ulations or orders of the Secretary or the Board thereunder,
25 or to impose the civil penalties authorized by this part or
26 such regulation or order, whenever the attorney general of

1 *the State has reason to believe that the interests of the resi-*
2 *dents of the State have been or are being threatened or ad-*
3 *versely affected by a carrier or broker providing transpor-*
4 *tation subject to jurisdiction under subchapter I or III of*
5 *chapter 135 of this title, or a foreign motor carrier pro-*
6 *viding transportation registered under section 13902 of this*
7 *title, that is engaged in household goods transportation that*
8 *violates this part or a regulation or order of the Secretary*
9 *or Board, as applicable, promulgated under this part.*

10 “(b) *NOTICE.*—*The State shall serve written notice to*
11 *the Secretary or the Board, as the case may be, of any civil*
12 *action under subsection (a) prior to initiating such civil*
13 *action. The notice shall include a copy of the complaint to*
14 *be filed to initiate such civil action, except that if it is not*
15 *feasible for the State to provide such prior notice, the State*
16 *shall provide such notice immediately upon instituting such*
17 *civil action.*

18 “(c) *AUTHORITY TO INTERVENE.*—*Upon receiving the*
19 *notice required by subsection (b), the Secretary or Board*
20 *may intervene in such civil action and upon intervening—*

21 “(1) *be heard on all matters arising in such civil*
22 *action; and*

23 “(2) *file petitions for appeal of a decision in*
24 *such civil action.*

1 “(d) *CONSTRUCTION.*—*For purposes of bringing any*
2 *civil action under subsection (a), nothing in this section*
3 *shall prevent the attorney general of a State from exercising*
4 *the powers conferred on the attorney general by the laws*
5 *of such State to conduct investigations or to administer*
6 *oaths or affirmations or to compel the attendance of wit-*
7 *nesses or the production of documentary and other evidence.*

8 “(e) *VENUE; SERVICE OF PROCESS.*—*In a civil action*
9 *brought under subsection (a)—*

10 “(1) *the venue shall be a judicial district in*
11 *which—*

12 “(A) *the carrier, foreign motor carrier, or*
13 *broker operates;*

14 “(B) *the carrier, foreign motor carrier, or*
15 *broker was authorized to provide transportation*
16 *at the time the complaint arose; or*

17 “(C) *where the defendant in the civil action*
18 *is found;*

19 “(2) *process may be served without regard to the*
20 *territorial limits of the district or of the State in*
21 *which the civil action is instituted; and*

22 “(3) *a person who participated with a carrier or*
23 *broker in an alleged violation that is being litigated*
24 *in the civil action may be joined in the civil action*
25 *without regard to the residence of the person.*

1 “(f) *ENFORCEMENT OF STATE LAW.*—Nothing con-
 2 tained in this section shall prohibit an authorized State of-
 3 ficial from proceeding in State court to enforce a criminal
 4 statute of such State.”.

5 (2) *CONFORMING AMENDMENT.*—The analysis for
 6 chapter 147 is amended by inserting after the item re-
 7 lating to section 14709 the following:

“14710. Enforcement of Federal laws and regulations with respect to transpor-
 tation of household goods.

“14711. Enforcement by State attorneys general.”.

8 **SEC. 4309. WORKING GROUP FOR DEVELOPMENT OF PRAC-**
 9 **TICES AND PROCEDURES TO ENHANCE FED-**
 10 **ERAL-STATE RELATIONS.**

11 (a) *IN GENERAL.*—Not later than 90 days after the
 12 date of enactment of this Act, the Secretary shall establish
 13 a working group of State attorneys general, State authori-
 14 ties that regulate the movement of household goods, and Fed-
 15 eral and local law enforcement officials for the purpose of
 16 developing practices and procedures to enhance the Federal-
 17 State partnership in enforcement efforts, exchange of infor-
 18 mation, and coordination of enforcement efforts with respect
 19 to interstate transportation of household goods and making
 20 legislative and regulatory recommendations to the Secretary
 21 concerning such enforcement efforts.

22 (b) *CONSULTATION.*—In carrying out subsection (a),
 23 the working group shall consult with industries involved in

1 *the transportation of household goods, the public, and other*
2 *interested parties.*

3 **SEC. 4310. CONSUMER HANDBOOK ON DOT WEBSITE.**

4 *Within 6 months after the date of enactment of this*
5 *Act, the Secretary shall take such action as may be nec-*
6 *essary to ensure that the Department of Transportation*
7 *publication OCE 100, entitled “Your Rights and Respon-*
8 *sibilities When You Move” required by section 375.2 of title*
9 *49, Code of Federal Regulations (or any corresponding*
10 *similar regulation), is prominently displayed, and avail-*
11 *able in language that is readily understandable by the gen-*
12 *eral public, on the website of the Department of Transpor-*
13 *tation.*

14 **SEC. 4311. INFORMATION ABOUT HOUSEHOLD GOODS**
15 **TRANSPORTATION ON CARRIERS’ WEBSITES.**

16 *Not later than 1 year after the date of enactment of*
17 *this Act, the Secretary shall modify the regulations con-*
18 *tained in part 375 of title 49, Code of Federal Regulations,*
19 *to require a motor carrier or broker that is subject to such*
20 *regulations and that establishes and maintains a website*
21 *to prominently display on the website—*

22 *(1) the number assigned to the motor carrier or*
23 *broker by the Department of Transportation;*

24 *(2) the OCE 100 publication referred to in sec-*
25 *tion 4310; and*

1 (3) *in the case of a broker, a list of all motor*
2 *carriers providing transportation of household goods*
3 *used by the broker and a statement that the broker is*
4 *not a motor carrier providing transportation of*
5 *household goods.*

6 **SEC. 4312. CONSUMER COMPLAINTS.**

7 (a) *REQUIREMENT FOR DATABASE.*—*Subchapter II of*
8 *chapter 141 is amended by adding at the end the following:*

9 **“§ 14124. Consumer complaints**

10 “(a) *ESTABLISHMENT OF SYSTEM AND DATABASE.*—

11 *The Secretary of Transportation shall—*

12 “(1) *establish a system to—*

13 “(A) *file and log a complaint made by a*
14 *shipper that relates to motor carrier transpor-*
15 *tation of household goods; and*

16 “(B) *to solicit information gathered by a*
17 *State regarding the number and type of com-*
18 *plaints involving the interstate transportation of*
19 *household goods;*

20 “(2) *establish a database of such complaints; and*

21 “(3) *develop a procedure—*

22 “(A) *to provide the public access to the*
23 *database;*

24 “(B) *to forward a complaint, including the*
25 *motor carrier bill of lading number related to the*

1 *complaint to a motor carrier named in such*
2 *complaint and to an appropriate State authority*
3 *(as defined in section 14710(c) in the State in*
4 *which the complainant resides; and*

5 *“(C) to permit a motor carrier to challenge*
6 *information in the database.*

7 *“(b) REQUIREMENT FOR ANNUAL REPORTS.—The Sec-*
8 *retary shall issue regulations requiring a motor carrier that*
9 *provides transportation of household goods to submit to the*
10 *Secretary, not later than March 31st of each year, an an-*
11 *nual report covering the 12-month period ending on the pre-*
12 *ceding March 31st that includes—*

13 *“(1) the number of interstate shipments of house-*
14 *hold goods that the motor carrier received from ship-*
15 *pers and that were delivered to a final destination*
16 *during the preceding calendar year;*

17 *“(2) the number and general category of com-*
18 *plaints lodged against the motor carrier during the*
19 *preceding calendar year;*

20 *“(3) the number of shipments described in para-*
21 *graph (1) that resulted in the filing of a claim*
22 *against the motor carrier for loss or damage to the*
23 *shipment for an amount in excess of \$500 during the*
24 *preceding calendar year; and*

1 “(4) the number of shipments described in para-
2 graph (3) that were—

3 “(A) resolved during the preceding calendar
4 year; or

5 “(B) pending on the last day of the pre-
6 ceding calendar year.

7 “(c) *SUMMARY TO CONGRESS.*—The Secretary shall
8 transmit a summary each year of the complaints filed and
9 logged under subsection (a) for the preceding calendar year
10 to the Senate Committee on Commerce, Science, and Trans-
11 portation and the House of Representatives Committee on
12 Transportation and Infrastructure.”.

13 (b) *CONFORMING AMENDMENT.*—The analysis for
14 chapter 141 is amended by inserting after the item relating
15 to section 14123 the following:

 “14124. Consumer complaints.”.

16 **SEC. 4313. REVIEW OF LIABILITY OF CARRIERS.**

17 (a) *REVIEW.*—Not later than 1 year after the date of
18 enactment of this Act, the Surface Transportation Board
19 shall complete a review of the current Federal regulations
20 regarding the level of liability protection provided by motor
21 carriers that provide transportation of household goods and
22 revise such regulations, if necessary, to provide enhanced
23 protection in the case of loss or damage.

24 (b) *DETERMINATIONS.*—The review required by sub-
25 section (a) shall include a determination of—

1 (1) *whether the current regulations provide ade-*
2 *quate protection;*

3 (2) *the benefits of purchase by a shipper of in-*
4 *surance to supplement the carrier's limitations on li-*
5 *ability;*

6 (3) *whether there are abuses of the current regu-*
7 *lations that leave the shipper unprotected in the event*
8 *of loss and damage to a shipment of household goods;*
9 *and*

10 (4) *whether the section 14706 of title 49, United*
11 *States Code, should be modified or repealed.*

12 **SEC. 4314. CIVIL PENALTIES RELATING TO HOUSEHOLD**
13 **GOODS BROKERS.**

14 *Section 14901(d) is amended—*

15 (1) *by resetting the text as a paragraph indented*
16 *2 ems from the left margin and inserting “(1) IN*
17 *GENERAL.—” before “If a carrier”; and*

18 (2) *by adding at the end the following:*

19 “(2) *ESTIMATE OF BROKER WITHOUT CARRIER*
20 *AGREEMENT.—If a broker for transportation of house-*
21 *hold goods subject to jurisdiction under subchapter I*
22 *of chapter 135 of this title makes an estimate of the*
23 *cost of transporting any such goods before entering*
24 *into an agreement with a carrier to provide transpor-*
25 *tation of household goods subject to such jurisdiction,*

1 *the broker is liable to the United States for a civil*
 2 *penalty of not less than \$10,000 for each violation.*

3 “(3) *UNAUTHORIZED TRANSPORTATION.—If a*
 4 *person provides transportation of household goods*
 5 *subject to jurisdiction under subchapter I of chapter*
 6 *135 this title or provides broker services for such*
 7 *transportation without being registered under chapter*
 8 *139 of this title to provide such transportation or*
 9 *services as a motor carrier or broker, as the case may*
 10 *be, such person is liable to the United States for a*
 11 *civil penalty of not less than \$25,000 for each viola-*
 12 *tion.”.*

13 **SEC. 4315. CIVIL AND CRIMINAL PENALTY FOR FAILING TO**
 14 **GIVE UP POSSESSION OF HOUSEHOLD**
 15 **GOODS.**

16 (a) *IN GENERAL.—Chapter 149 is amended by adding*
 17 *at the end the following:*

18 **“§ 14915. Penalties for failure to give up possession of**
 19 **household goods**

20 “(a) *CIVIL PENALTY.—Whoever is found to have failed*
 21 *to give up possession of household goods is liable to the*
 22 *United States for a civil penalty of not less than \$10,000.*
 23 *Each day a carrier is found to have failed to give up posses-*
 24 *sion of household goods may constitute a separate violation.*
 25 *If such person is a carrier or broker, the Secretary may*

1 *suspend for a period of not less than 6 months the registra-*
2 *tion of such carrier or broker under chapter 139 of this title.*

3 “(b) *CRIMINAL PENALTY.*—Whoever has been convicted
4 *of having failed to give up possession of household goods*
5 *shall be fined under title 18 or imprisoned for not more*
6 *than 2 years, or both.*

7 “(c) *FAILURE TO GIVE UP POSSESSION OF HOUSE-*
8 *HOLD GOODS DEFINED.*—For purposes of this section, the
9 *term ‘failed to give up possession of household goods’ means*
10 *the knowing and willful failure of a motor carrier to deliver*
11 *to, or unload at, the destination of a shipment of household*
12 *goods that is subject to jurisdiction under subchapter I or*
13 *III of chapter 135 of this title, for which charges have been*
14 *estimated by the motor carrier providing transportation of*
15 *such goods, and for which the shipper has tendered a pay-*
16 *ment described in clause (i), (ii), or (iii) of section*
17 *13707(b)(3)(A) of this title.”.*

18 (b) *CONFORMING AMENDMENT.*—The analysis for such
19 *chapter is amended by adding at the end the following:*

“14915. Penalties for failure to give up possession of household goods.”.

20 **SEC. 4316. PROGRESS REPORT.**

21 *Not later than 1 year after the date of enactment of*
22 *this Act, the Secretary shall transmit to Congress a report*
23 *on the progress being made in implementing the provisions*
24 *of this title.*

1 **SEC. 4317. ADDITIONAL REGISTRATION REQUIREMENTS**
2 **FOR MOTOR CARRIERS OF HOUSEHOLD**
3 **GOODS.**

4 *Section 13902(a) is amended—*

5 *(1) by striking paragraphs (2) and (3);*

6 *(2) by redesignating paragraph (4) as para-*
7 *graph (5) and inserting after paragraph (1) the fol-*
8 *lowing:*

9 *“(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR*
10 *HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding*
11 *paragraph (1), the Secretary may register a person to pro-*
12 *vide transportation of household goods (as defined in section*
13 *13102(10) of this title) only after that person—*

14 *“(A) provides evidence of participation in*
15 *an arbitration program and provides a copy of*
16 *the notice of that program as required by section*
17 *14708(b)(2) of this title;*

18 *“(B) identifies its tariff and provides a*
19 *copy of the notice of the availability of that tariff*
20 *for inspection as required by section 13702(c) of*
21 *this title;*

22 *“(C) provides evidence that it has access to,*
23 *has read, is familiar with, and will observe all*
24 *laws relating to consumer protection, estimating,*
25 *consumers’ rights and responsibilities, and op-*

1 *tions for limitations of liability for loss and*
2 *damage; and*

3 *“(D) discloses any relationship involving*
4 *common stock, common ownership, common*
5 *management, or common familial relationships*
6 *between that person and any other motor carrier,*
7 *freight forwarder, or broker of household goods*
8 *within the past 3 years.*

9 *“(3) CONSIDERATION OF EVIDENCE; FINDINGS.—*
10 *The Secretary shall consider, and, to the extent appli-*
11 *cable, make findings on any evidence demonstrating*
12 *that the registrant is unable to comply with any ap-*
13 *plicable requirement of paragraph (1) or, in the case*
14 *of a registrant to which paragraph (2) applies, para-*
15 *graph (1) or (2).*

16 *“(4) WITHHOLDING.—If the Secretary deter-*
17 *mines that a registrant under this section does not*
18 *meet, or is not able to meet, any requirement of para-*
19 *graph (1) or, in the case of a registrant to which*
20 *paragraph (2) applies, paragraph (1) or (2), the Sec-*
21 *retary shall withhold registration.”; and*

22 *(3) by adding at the end of paragraph (5), as re-*
23 *designated, “In the case of a registration for the*
24 *transportation of household goods (as defined in sec-*
25 *tion 13102(10 of this title), the Secretary may also*

1 hear a complaint on the ground that the registrant
2 fails or will fail to comply with the requirements of
3 paragraph (2) of this subsection.”.

4 **Subtitle D—Hazardous Materials**
5 **Transportation Safety and Security**

6 **SEC. 4401. SHORT TITLE.**

7 This subtitle may be cited as the “Hazardous Material
8 Transportation Safety and Security Reauthorization Act of
9 2004”.

10 **SEC. 4402. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

11 Except as otherwise expressly provided, whenever in
12 this subtitle an amendment or repeal is expressed in terms
13 of an amendment to, or repeal of, a section or other provi-
14 sion, the reference shall be considered to be made to a section
15 or other provision of title 49, United States Code.

16 **PART I—GENERAL AUTHORITIES ON**
17 **TRANSPORTATION OF HAZARDOUS MATERIALS**

18 **SEC. 4421. PURPOSE.**

19 The text of section 5101 is amended to read as follows:

20 “The purpose of this chapter is to protect against the
21 risks to life, property, and the environment that are inher-
22 ent in the transportation of hazardous material in intra-
23 state, interstate, and foreign commerce.”.

24 **SEC. 4422. DEFINITIONS.**

25 Section 5102 is amended as follows:

1 (1) *COMMERCE*.—Paragraph (1) is amended—

2 (A) by striking “or” after the semicolon in
3 subparagraph (A);

4 (B) by striking the “State.” in subpara-
5 graph (B) and inserting “State; or”; and

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

7 “(C) on a United States-registered air-
8 craft.”.

9 (2) *HAZMAT EMPLOYEE*.—Paragraph (3) is
10 amended to read as follows:

11 “(3) ‘hazmat employee’ means an individual—

12 “(A) who—

13 “(i) is employed or used by a hazmat
14 employer; or

15 “(ii) is self-employed, including an
16 owner-operator of a motor vehicle, vessel, or
17 aircraft, transporting hazardous material
18 in commerce; and

19 “(B) who performs a function regulated by
20 the Secretary under section 5103(b)(1) of this
21 title.”.

22 (3) *HAZMAT EMPLOYER*.—Paragraph (4) is
23 amended to read as follows:

24 “(4) ‘hazmat employer’ means a person—

25 “(A) who—

1 “(i) employs or uses at least 1 hazmat
2 employee; or

3 “(ii) is self-employed, including an
4 owner-operator of a motor vehicle, vessel, or
5 aircraft, transporting hazardous material
6 in commerce; and

7 “(B) who performs, or employs or uses at
8 least 1 hazmat employee to perform, a function
9 regulated by the Secretary under section
10 5103(b)(1) of this title.”.

11 (4) *IMMINENT HAZARD*.—Paragraph (5) is
12 amended by inserting “relating to hazardous mate-
13 rial” after “of a condition”.

14 (5) *MOTOR CARRIER*.—Paragraph (7) is amend-
15 ed to read as follows:

16 “(7) ‘motor carrier’—

17 “(A) means a motor carrier, motor private
18 carrier, and freight forwarder as those terms are
19 defined in section 13102 of this title; but

20 “(B) does not include a freight forwarder,
21 as so defined, if the freight forwarder is not per-
22 forming a function relating to highway transpor-
23 tation.”.

24 (6) *NATIONAL RESPONSE TEAM*.—Paragraph (8)
25 is amended—

1 (A) by striking “national response team”
2 both places it appears and inserting “National
3 Response Team”; and

4 (B) by striking “national contingency
5 plan” and inserting “National Contingency
6 Plan”.

7 (7) *PERSON*.—Paragraph (9)(A) is amended by
8 striking “offering” and all that follows and inserting
9 “that—

10 “(i) offers hazardous material for
11 transportation in commerce;

12 “(ii) transports hazardous material to
13 further a commercial enterprise; or

14 “(iii) manufactures, designs, inspects,
15 tests, reconditions, marks, or repairs a
16 packaging or packaging component that is
17 represented as qualified for use in trans-
18 porting hazardous material in commerce;
19 but”.

20 (8) *SECRETARY OF TRANSPORTATION*.—Section
21 5101 is further amended—

22 (A) by redesignating paragraphs (11), (12),
23 and (13), as paragraphs (12), (13), and (14), re-
24 spectively; and

1 (B) by inserting after paragraph (10) the
2 following:

3 “(11) ‘Secretary’ means the Secretary of Trans-
4 portation except as otherwise provided.”.

5 **SEC. 4423. GENERAL REGULATORY AUTHORITY.**

6 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
7 *TATION.*—Section 5103(a) is amended by striking “of
8 *Transportation*”.

9 (b) *DESIGNATING MATERIAL AS HAZARDOUS.*—Sec-
10 *tion 5103(a) is further amended—*

11 (1) by striking “*etiologic agent*” and all that fol-
12 lows through “*corrosive material,*” and inserting “*in-*
13 *fectious substance, flammable or combustible liquid,*
14 *solid, or gas, toxic, oxidizing, or corrosive material,*”;
15 and

16 (2) by striking “*decides*” and inserting “*deter-*
17 *mines*”.

18 (c) *REGULATIONS FOR SAFE TRANSPORTATION.*—Sec-
19 *tion 5103(b)(1)(A) is amended to read as follows:*

20 “(A) apply to a person who—

21 “(i) transports hazardous material in
22 commerce;

23 “(ii) causes hazardous material to be
24 transported in commerce;

1 “(iii) manufactures, designs, inspects,
2 tests, reconditions, marks, or repairs a
3 packaging or packaging component that is
4 represented as qualified for use in trans-
5 porting hazardous material in commerce;

6 “(iv) prepares or accepts hazardous
7 material for transportation in commerce;

8 “(v) is responsible for the safety of
9 transporting hazardous material in com-
10 merce;

11 “(vi) certifies compliance with any re-
12 quirement under this chapter;

13 “(vii) misrepresents whether such per-
14 son is engaged in any activity under clause
15 (i) through (vi) of this subparagraph; or

16 “(viii) performs any other act or func-
17 tion relating to the transportation of haz-
18 ardous material in commerce; and”.

19 (d) *TECHNICAL AMENDMENT REGARDING CONSULTA-*
20 *TION.—Section 5103 is amended—*

21 (1) *by striking subsection (b)(1)(C); and*

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

23 “(c) *CONSULTATION.—When prescribing a security*
24 *regulation or issuing a security order that affects the safety*
25 *of the transportation of hazardous material, the Secretary*

1 *of Homeland Security shall consult with the Secretary of*
2 *Transportation.”.*

3 **SEC. 4424. LIMITATION ON ISSUANCE OF HAZMAT LI-**
4 **CENSES.**

5 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
6 *TATION.—Section 5103a is amended by striking “of Trans-*
7 *portation” each place it appears in subsections (a)(1),*
8 *(c)(1)(B), and (d) and inserting “of Homeland Security”.*

9 (b) *COVERED HAZARDOUS MATERIALS.—Section*
10 *5103a(b) is amended by striking “with respect to—” and*
11 *all that follows and inserting “with respect to any material*
12 *defined as hazardous material by the Secretary for which*
13 *the Secretary requires placarding of a commercial motor*
14 *vehicle transporting that material in commerce.”.*

15 (c) *RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL*
16 *MATERIALS.—Section 5103a is further amended—*

17 (1) *by redesignating subsections (c), (d), and (e)*
18 *as subsections (d), (e), and (f), respectively; and*

19 (2) *by inserting after subsection (b) the fol-*
20 *lowing:*

21 “(c) *RECOMMENDATIONS ON CHEMICAL AND BIOLOGI-*
22 *CAL MATERIALS.—The Secretary of Health and Human*
23 *Services shall recommend to the Secretary any chemical or*
24 *biological material or agent for regulation as a hazardous*
25 *material under section 5103(a) of this title if the Secretary*

1 of Health and Human Services determines that such mate-
2 rial or agent is a threat to the national security of the
3 United States.”.

4 (d) *CONFORMING AMENDMENT.*—Section 5103a(a)(1)
5 is amended by striking “subsection (c)(1)(B),” and insert-
6 ing “subsection (d)(1)(B),”.

7 **SEC. 4425. REPRESENTATION AND TAMPERING.**

8 (a) *REPRESENTATION.*—Section 5104(a) is amend-
9 ed—

10 (1) by striking “a container,” and all that fol-
11 lows through “(packaging) for” and inserting “a pack-
12 age, component of a package, or packaging for”; and

13 (2) by striking “the container” and all that fol-
14 lows through “(packaging) meets” and inserting “the
15 package, component of a package, or packaging
16 meets”.

17 (b) *TAMPERING.*—Section 5104(b) is amended—

18 (1) by inserting “, without authorization from
19 the owner or custodian,” after “may not”;

20 (2) by striking “unlawfully”; and

21 (3) by inserting “component of a package, or
22 packaging,” after “package,” in paragraph (2).

1 **SEC. 4426. TRANSPORTING CERTAIN HIGHLY RADIOACTIVE**
2 **MATERIAL.**

3 (a) *REPEAL OF ROUTES AND MODES STUDY.*—Section
4 5105 is amended by striking subsection (d).

5 (b) *REPEAL OF REQUIREMENT FOR INSPECTIONS OF*
6 *CERTAIN MOTOR VEHICLES.*—Section 5105 is amended by
7 striking subsection (e).

8 **SEC. 4427. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**
9 **AND GRANTS.**

10 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
11 *TATION.*—Section 5107 is amended by striking “of Trans-
12 portation” each place it appears in subsections (a), (b), (c)
13 (other than in paragraph (1)), (d), and (f).

14 (b) *TRAINING GRANTS.*—Section 5107(e) is amended—

15 (1) by striking “section 5127(c)(3)” and insert-
16 ing “section 5128(b)(1) of this title”;

17 (2) by inserting “and, to the extent determined
18 appropriate by the Secretary, grants for such instruc-
19 tors to train hazmat employees” after “employees” in
20 the first sentence thereof.

21 **SEC. 4428. REGISTRATION.**

22 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
23 *TATION.*—Section 5108 is amended by striking “of Trans-
24 portation” each place it appears in subsections (a), (b)
25 (other than following “Department”), (d), (e), (f), (g), (h),
26 and (i).

1 **(b) PERSONS REQUIRED TO FILE.**—

2 **(1) REQUIREMENT TO FILE.**—Section
3 5108(a)(1)(B) is amended by striking “class A or B
4 explosive” and inserting “Division 1.1, 1.2, or 1.3 ex-
5 plosive material”.

6 **(2) AUTHORITY TO REQUIRE TO FILE.**—Section
7 5108(a)(2)(B) is amended to read as follows:

8 “(B) a person manufacturing, designing, in-
9 specting, testing, reconditioning, marking, or repair-
10 ing a package or packaging component that is rep-
11 resented as qualified for use in transporting haz-
12 ardous material in commerce.”.

13 **(3) NO TRANSPORTATION WITHOUT FILING.**—
14 Section 5108(a)(3) is amended by striking “fab-
15 ricate,” and all that follows through “package or”
16 and inserting “design, inspect, test, recondition,
17 mark, or repair a package, packaging component,
18 or”.

19 **(c) FORM AND CONTENT OF FILINGS.**—Section
20 5108(b)(1)(C) by striking “the activity.” and inserting
21 “any of the activities.”.

22 **(d) FILING.**—Section 5108(c) is amended to read as
23 follows:

24 “(c) **FILING.**—Each person required to file a registra-
25 tion statement under subsection (a) of this section shall file

1 *the statement in accordance with regulations prescribed by*
2 *the Secretary.”.*

3 (e) *FEES.*—Section 5108(g)(1) is amended by striking
4 “*may establish,*” and inserting “*shall establish,*”.

5 (f) *RELATIONSHIP TO OTHER LAWS.*—Section
6 5108(i)(2)(B) is amended by inserting “*an Indian tribe,*”
7 after “*subdivision of a State,*”.

8 (g) *REGISTRATION AND ANNUAL FEES.*—

9 (1) *REDUCTION IN CAP.*—Section 5108(g)(2)(A)
10 is amended by striking “*\$5,000*” and inserting
11 “*\$2,000*”.

12 (2) *RULEMAKING.*—Any rule, regulation, or
13 order issued by the Secretary of Transportation under
14 which the assessment, payment, or collection of fees
15 under section 5108(g) of title 49, United States Code,
16 was suspended or terminated before the date of enact-
17 ment of this Act is declared null and void effective 30
18 days after such date of enactment. Beginning on the
19 31st day after such date of enactment, the fee schedule
20 established by the Secretary and set forth at 65 Fed-
21 eral Register 7297 (as modified by the rule set forth
22 at 67 Federal Register 58343) shall take effect and
23 apply until such time as it may be modified by a
24 rulemaking proceeding.

1 (3) *PLANNING AND TRAINING GRANTS.*—*Notwith-*
2 *standing any other provision of law to the contrary,*
3 *including any limitation on the amount of grants au-*
4 *thorized by section 5116 of title 49, United States*
5 *Code, not contained in that section, the Secretary*
6 *shall make grants under that section from the account*
7 *established under section 5116(i) to reduce the balance*
8 *in that account over the 6 fiscal year period begin-*
9 *ning with fiscal year 2004, but in no fiscal year shall*
10 *the grants distributed exceed the level authorized by*
11 *section 5116 of title 49, United States Code.*

12 **SEC. 4429. SHIPPING PAPERS AND DISCLOSURE.**

13 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
14 *TATION.*—*Section 5110(a) is amended by striking “of*
15 *Transportation”.*

16 (b) *DISCLOSURE CONSIDERATIONS AND REQUIRE-*
17 *MENTS.*—*Section 5110 is amended—*

18 (1) *by striking “under subsection (b) of this sec-*
19 *tion.” in subsection (a) and inserting “in regula-*
20 *tions.”;*

21 (2) *by striking subsection (b); and*

22 (3) *by redesignating subsections (c), (d), and (e)*
23 *as subsections (b), (c), and (d), respectively.*

24 (c) *RETENTION OF PAPERS.*—*The first sentence of sec-*
25 *tion 5110(d), as redesignated by subsection (b)(3) of this*

1 *section, is amended to read as follows: “The person who pro-*
2 *vides the shipping paper, and the carrier required to keep*
3 *it, under this section shall retain the paper, or an electronic*
4 *format of it, for a period of 3 years after the date the ship-*
5 *ping paper is provided to the carrier, with the paper and*
6 *format to be accessible through their respective principal*
7 *places of business.”.*

8 **SEC. 4430. RAIL TANK CARS.**

9 (a) *REPEAL OF REQUIREMENTS.*—Section 5111 is re-
10 *pealed.*

11 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
12 *chapter 51 is amended by striking the item relating to sec-*
13 *tion 5111.*

14 **SEC. 4431. HIGHWAY ROUTING OF HAZARDOUS MATERIAL.**

15 *The second sentence of section 5112(a)(1) is amended*
16 *by striking “However, the Secretary of Transportation”*
17 *and inserting “The Secretary”.*

18 **SEC. 4432. UNSATISFACTORY SAFETY RATINGS.**

19 (a) *IN GENERAL.*—The text of section 5113 is amended
20 *to read as follows:*

21 *“A violation of section 31144(c)(3) of this title shall*
22 *be considered a violation of this chapter, and shall be subject*
23 *to the penalties in sections 5123 and 5124 of this title.”.*

24 (b) *CONFORMING AMENDMENTS.*—The first subsection

25 (c) *of section 31144 is amended—*

1 (1) by striking “sections 521(b)(5)(A) and 5113”
2 in paragraph (1) and inserting “section 521(b)(5)(A)
3 of this title”; and

4 (2) by adding at the end of paragraph (3) “A
5 violation of this paragraph by an owner or operator
6 transporting hazardous material shall be considered a
7 violation of chapter 51 of this title, and shall be sub-
8 ject to the penalties in sections 5123 and 5124 of this
9 title.”.

10 **SEC. 4433. AIR TRANSPORTATION OF IONIZING RADIATION**

11 **MATERIAL.**

12 Section 5114(b) is amended by striking “of Transpor-
13 tation”.

14 **SEC. 4434. TRAINING CURRICULUM FOR THE PUBLIC SEC-**

15 **TOR.**

16 (a) *IN GENERAL.*—Section 5115(a) is amended to read
17 as follows:

18 “(a) *IN GENERAL.*—In coordination with the Director
19 of the Federal Emergency Management Agency, the Chair-
20 man of the Nuclear Regulatory Commission, the Adminis-
21 trator of the Environmental Protection Agency, the Secre-
22 taries of Labor, Energy, and Health and Human Services,
23 and the Director of the National Institute of Environmental
24 Health Sciences, and using existing coordinating mecha-
25 nisms of the National Response Team and, for radioactive

1 *material, the Federal Radiological Preparedness Coordi-*
2 *nating Committee, the Secretary shall maintain a current*
3 *curriculum of lists of courses necessary to train public sec-*
4 *tor emergency response and preparedness teams in matters*
5 *relating to the transportation of hazardous material.”.*

6 (b) *REQUIREMENTS.—Section 5115(b) is amended—*

7 (1) *by striking “developed” in the matter pre-*
8 *ceding paragraph (1) and inserting “maintained”;*
9 *and*

10 (2) *by striking “under other United States Gov-*
11 *ernment grant programs” in paragraph (1)(C) and*
12 *all that follows and inserting “with Federal assist-*
13 *ance; and”.*

14 (c) *TRAINING ON COMPLIANCE WITH LEGAL REQUIRE-*
15 *MENTS.—Section 5115(c)(3) is amended by striking “Asso-*
16 *ciation.” and inserting “Association or by any other vol-*
17 *untary organization establishing consensus-based standards*
18 *that the Secretary considers appropriate.”.*

19 (d) *DISTRIBUTION AND PUBLICATION.—Section*
20 *5115(d) is amended—*

21 (1) *by striking “national response team—” and*
22 *inserting “National Response Team—”; and*

23 (2) *by striking “publish a list” in paragraph (2)*
24 *and all that follows and inserting “publish and dis-*

1 tribute the list of courses maintained under this sec-
2 tion, and of any programs utilizing such courses.”.

3 **SEC. 4435. PLANNING AND TRAINING GRANTS; EMERGENCY**
4 **PREPAREDNESS FUND.**

5 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
6 *TATION.*—Section 5116 is amended by striking “of Trans-
7 portation” each place it appears in subsections (a), (b), (c),
8 (d), (g), and (i).

9 (b) *GOVERNMENT SHARE OF COSTS.*—Section 5116(e)
10 is amended by striking the second sentence.

11 (c) *MONITORING AND TECHNICAL ASSISTANCE.*—Sec-
12 tion 5116(f) is amended by striking “national response
13 team” and inserting “National Response Team”.

14 (d) *DELEGATION OF AUTHORITY.*—Section 5116(g) is
15 amended by striking “Government grant programs” and
16 inserting “Federal financial assistance programs”.

17 (e) *EMERGENCY PREPAREDNESS FUND.*—

18 (1) *NAME OF FUND.*—Section 5116(i) is amend-
19 ed by inserting after “an account” the following: “(to
20 be known as the ‘Emergency Preparedness Fund’)”.

21 (2) *PUBLICATION OF EMERGENCY RESPONSE*
22 *GUIDE.*—Section 5116(i) is further amended—

23 (A) by striking “collects under section
24 5108(g)(2)(A) of this title and”;

1 (B) by striking “and” after the semicolon in
2 paragraph (2);

3 (C) by redesignating paragraph (3) as
4 paragraph (4); and

5 (D) by inserting after paragraph (2) the fol-
6 lowing:

7 “(3) to publish and distribute an emergency re-
8 sponse guide; and”.

9 (3) CONFORMING AMENDMENT.—Section
10 5108(g)(2)(C) is amended by striking “the account the
11 Secretary of the Treasury establishes” and inserting
12 “the Emergency Response Fund established”.

13 (f) REPORTS.—Section 5116(k) is amended—

14 (1) by striking the first sentence and inserting
15 “The Secretary shall make available to the public an-
16 nually information on the allocation and uses of
17 planning grants under subsection (a), training grants
18 under subsection (b), and grants under subsection (j)
19 of this section and under section 5107 of this title.”;
20 and

21 (2) by striking “Such report” in the second sen-
22 tence and inserting “The information”.

23 **SEC. 4436. SPECIAL PERMITS AND EXCLUSIONS.**

24 (a) SPECIAL PERMITS AND EXCLUSIONS.—

1 (1) *IN GENERAL.*—Section 5117(a)(1) is amend-
2 ed by striking “the Secretary of Transportation may
3 issue” and all that follows through “in a way” and
4 inserting “the Secretary may issue, modify, or termi-
5 nate a special permit authorizing variances from this
6 chapter, or a regulation prescribed under section
7 5103(b), 5104, 5110, or 5112 of this title, to a person
8 performing a function regulated by the Secretary
9 under section 5103(b)(1) of this title in a way”.

10 (2) *DURATION.*—Section 5117(a)(2) is amended
11 to read as follows:

12 “(2) A special permit under this subsection—

13 “(A) shall be effective when first issued for
14 not more than 2 years; and

15 “(B) may be renewed for successive periods
16 of not more than 4 years each.”.

17 (b) *REFERENCES TO SPECIAL PERMITS.*—Section
18 5117 is further amended—

19 (1) by striking “an exemption” each place it ap-
20 pears and inserting “a special permit”; and

21 (2) by striking “the exemption” each place it ap-
22 pears and inserting “the special permit”.

23 (c) *CONFORMING AND CLERICAL AMENDMENTS.*—

24 (1) *CONFORMING AMENDMENT.*—The heading of
25 section 5117 is amended to read as follows:

1 **“§ 5117. Special permits and exclusions”**

2 (2) *CLERICAL AMENDMENT.—The chapter anal-*
3 *ysis for chapter 51 is amended by striking the item*
4 *relating to section 5117 and inserting the following:*
“5117. Special permits and exclusions.”.

5 (d) *REPEAL OF SECTION 5118.—*

6 (1) *Section 5118 is repealed.*

7 (2) *The chapter analysis for chapter 51 is*
8 *amended by striking the item relating to section 5118*
9 *and inserting the following:*
“5118. Repealed.”.

10 **SEC. 4437. UNIFORM FORMS AND PROCEDURES.**

11 *The text of section 5119 is amended to read as follows:*

12 *“(a) IN GENERAL.—The Secretary may prescribe regu-*
13 *lations to establish uniform forms and regulations for*
14 *States on the following:*

15 *“(1) To register and issue permits to persons*
16 *that transport or cause to be transported hazardous*
17 *material by motor vehicles in a State.*

18 *“(2) To permit the transportation of hazardous*
19 *material in a State.*

20 *“(b) UNIFORMITY IN FORMS AND PROCEDURES.—In*
21 *prescribing regulations under subsection (a) of this section,*
22 *the Secretary shall develop procedures to eliminate discrep-*
23 *ancies among the States in carrying out the activities cov-*
24 *ered by the regulations.*

1 “(c) *LIMITATION.*—*The regulations prescribed under*
2 *subsection (a) of this section may not define or limit the*
3 *amount of any fees imposed or collected by a State for any*
4 *activities covered by the regulations.*

5 “(d) *EFFECTIVE DATE.*—

6 “(1) *IN GENERAL.*—*Except as provided in para-*
7 *graph (2) of this subsection, the regulations prescribed*
8 *under subsection (a) of this section shall take effect 1*
9 *year after the date on which prescribed.*

10 “(2) *EXTENSION.*—*The Secretary may extend the*
11 *1-year period in subsection (a) for an additional year*
12 *for good cause.*

13 “(e) *STATE REGULATIONS.*—*After the regulations pre-*
14 *scribed under subsection (a) of this section take effect under*
15 *subsection (d) of this section, a State may establish, main-*
16 *tain, or enforce a requirement relating to the same subject*
17 *matter only if the requirement is consistent with applicable*
18 *requirements with respect to such activity in the regula-*
19 *tions.*

20 “(f) *INTERIM STATE PROGRAMS.*—*Pending the pre-*
21 *scription of regulations under subsection (a) of this section,*
22 *States may participate in the program of uniform forms*
23 *and procedures recommended by the Alliance for Uniform*
24 *Hazmat Transportation Procedures.”.*

1 **SEC. 4438. INTERNATIONAL UNIFORMITY OF STANDARDS**
2 **AND REQUIREMENTS.**

3 *Section 5120 is amended by striking “of Transpor-*
4 *tation” each place it appears in subsections (a), (b), and*
5 *(c)(1).*

6 **SEC. 4439. HAZARDOUS MATERIALS TRANSPORTATION**
7 **SAFETY AND SECURITY.**

8 *The text of section 5121 is amended to read as follows:*

9 *“(a) GENERAL AUTHORITY.—*

10 *“(1) To carry out this chapter, the Secretary*
11 *may investigate, conduct tests, make reports, issue*
12 *subpoenas, conduct hearings, require the production of*
13 *records and property, take depositions, and conduct*
14 *research, development, demonstration, and training*
15 *activities.*

16 *“(2) Except as provided in subsections (c) and*
17 *(d) of this section, the Secretary shall provide notice*
18 *and an opportunity for a hearing before issuing an*
19 *order directing compliance with this chapter, a regu-*
20 *lation prescribed under this chapter, or an order, spe-*
21 *cial permit, or approval issued under this chapter.*

22 *“(b) RECORDS, REPORTS, PROPERTY, AND INFORMA-*
23 *TION.—A person subject to this chapter shall—*

24 *“(1) maintain records, make reports, and pro-*
25 *vide property and information that the Secretary by*
26 *regulation or order requires; and*

1 “(2) make the records, reports, property, and in-
2 formation available for inspection when the Secretary
3 undertakes an inspection or investigation.

4 “(c) *INSPECTIONS AND INVESTIGATIONS.*—

5 “(1) A designated officer or employee of the Sec-
6 retary may—

7 “(A) inspect and investigate, at a reason-
8 able time and in a reasonable way, records and
9 property relating to a function described in sec-
10 tion 5103(b)(1) of this title;

11 “(B) except for packaging immediately ad-
12 jacent to the hazardous material contents, gain
13 access to, open, and examine a package offered
14 for or in transportation when the officer or em-
15 ployees has an objectively reasonable and
16 articulable belief that the package may contain
17 hazardous material;

18 “(C) remove from transportation a package
19 or related packages in a shipment offered for or
20 in transportation for which—

21 “(i) such officer or employee has an ob-
22 jectively reasonable and articulable belief
23 that the package may pose an imminent
24 hazard; and

1 “(ii) such officer or employee contem-
2 poraneously documents such belief in ac-
3 cordance with procedures set forth in regu-
4 lations prescribed under subsection (e) of
5 this section;

6 “(D) gather information from the offeror,
7 carrier, packaging manufacturer or retester, or
8 other person responsible for a package or pack-
9 ages to ascertain the nature and hazards of the
10 contents of the package or packages;

11 “(E) as necessary under terms and condi-
12 tions prescribed by the Secretary, order the offer-
13 or, carrier, or other person responsible for a
14 package or packages to have the package or pack-
15 ages transported to an appropriate facility,
16 opened, examined, and analyzed; and

17 “(F) when safety might otherwise be com-
18 promised, authorize properly qualified personnel
19 to assist in activities carried out under this
20 paragraph.

21 “(2) An officer or employee acting under the au-
22 thority of the Secretary under this subsection shall
23 display proper credentials when requested.

24 “(3) In instances when, as a result of an inspec-
25 tion or investigation under this subsection, an immi-

1 *nent hazards is not found to exist, the Secretary shall,*
2 *in accordance with procedures set forth in regulations*
3 *prescribed under subsection (e) of this section, assist*
4 *the safe resumption of transportation of the package,*
5 *packages, or transport unit concerned.*

6 *“(d) EMERGENCY ORDERS.—*

7 *“(1) If, upon inspection, investigation, testing,*
8 *or research, the Secretary determines that a violation*
9 *of a provision of this chapter, or a regulation pre-*
10 *scribed under this chapter, or an unsafe condition or*
11 *practice, constitutes or is causing an imminent haz-*
12 *ard, the Secretary may issue or impose emergency re-*
13 *strictions, prohibitions, recalls, or out-of-service or-*
14 *ders, without notice or an opportunity for a hearing,*
15 *but only to the extent necessary to abate the imminent*
16 *hazard.*

17 *“(2) The action of the Secretary under para-*
18 *graph (1) of this subsection shall be in a written*
19 *emergency order that—*

20 *“(A) describes the violation, condition, or*
21 *practice that constitutes or is causing the immi-*
22 *nent hazard;*

23 *“(B) states the restrictions, prohibitions, re-*
24 *calls, or out-of-service orders issued or imposed;*
25 *and*

1 “(C) describe the standards and procedures
2 for obtaining relief from the order.

3 “(3) After taking action under paragraph (1) of
4 this subsection, the Secretary shall provide for review
5 of the action under section 554 of title 5 if a petition
6 for review is filed within 20 calendar days of the
7 issuance of the order for the action.

8 “(4) If a petition for review of an action is filed
9 under paragraph (3) of this subsection and the review
10 under that paragraph is not completed by the end of
11 the 30-day period beginning on the date the petition
12 is filed, the action shall cease to be effective at the end
13 of such period unless the Secretary determines, in
14 writing, that the imminent hazard providing a basis
15 for the action continues to exist.

16 “(5) In this subsection, the term ‘out-of-service
17 order’ means a requirement that an aircraft, vessel,
18 motor vehicle, train, railcar, locomotive, other vehicle,
19 transport unit, transport vehicle, freight container,
20 portable tank, or other package not be moved until
21 specified conditions have been met.

22 “(e) REGULATIONS.—The Secretary shall prescribe in
23 accordance with section 553 of title 5 regulations to carry
24 out the authority in subsections (c) and (d) of this section.

1 “(f) *FACILITY, STAFF, AND REPORTING SYSTEM ON*
2 *RISKS, EMERGENCIES, AND ACTIONS.—*

3 “(1) *The Secretary shall—*

4 “(A) *maintain a facility and technical staff*
5 *sufficient to provide, within the United States*
6 *Government, the capability of evaluating a risk*
7 *relating to the transportation of hazardous mate-*
8 *rial and material alleged to be hazardous;*

9 “(B) *maintain a central reporting system*
10 *and information center capable of providing in-*
11 *formation and advice to law enforcement and*
12 *firefighting personnel, and other interested indi-*
13 *viduals, and officers and employees of the United*
14 *States Government and State and local govern-*
15 *ments on meeting an emergency relating to the*
16 *transportation of hazardous material; and*

17 “(C) *conduct a continuous review on all as-*
18 *pects of transporting hazardous material to de-*
19 *cide on and take appropriate actions to ensure*
20 *safe transportation of hazardous material.*

21 “(2) *Paragraph (1) of this subsection shall not*
22 *prevent the Secretary from making a contract with a*
23 *private entity for use of a supplemental reporting sys-*
24 *tem and information center operated and maintained*
25 *by the contractor.*

1 “(g) GRANTS, COOPERATIVE AGREEMENTS, AND
2 OTHER TRANSACTIONS.—The Secretary may enter into
3 grants, cooperative agreements, and other transactions with
4 a person, agency, or instrumentality of the United States,
5 a unit of State or local government, an Indian tribe, a for-
6 eign government (in coordination with the Department of
7 State), an educational institution, or other appropriate en-
8 tity—

9 “(1) to expand risk assessment and emergency
10 response capabilities with respect to the security of
11 transportation of hazardous material;

12 “(2) to conduct research, development, dem-
13 onstration, risk assessment and emergency response
14 planning and training activities; or

15 “(3) to otherwise carry out this chapter.

16 “(h) REPORTS.—

17 “(1) The Secretary shall, once every 2 years, sub-
18 mit to the Senate Committee on Commerce, Science,
19 and Transportation and the House of Representatives
20 Committee on Transportation and Infrastructure a
21 comprehensive report on the transportation of haz-
22 ardous material during the preceding 2 calendar
23 years. Each report shall include, for the period cov-
24 ered by such report—

1 “(A) a statistical compilation of the acci-
2 dents, incidents, and casualties related to the
3 transportation of hazardous material during
4 such period;

5 “(B) a list and summary of applicable Gov-
6 ernment regulations, criteria, orders, and special
7 permits;

8 “(C) a summary of the basis for each spe-
9 cial permit issued;

10 “(D) an evaluation of the effectiveness of en-
11 forcement activities relating to the transpor-
12 tation of hazardous material during such period,
13 and of the degree of voluntary compliance with
14 regulations;

15 “(E) a summary of outstanding problems in
16 carrying out this chapter, set forth in order of
17 priority; and

18 “(F) any recommendations for legislative or
19 administrative action that the Secretary con-
20 siders appropriate.

21 “(2) Before December 31, 2005, and every 3
22 years thereafter, the Secretary, through the Bureau of
23 Transportation Statistics and in consultation with
24 other Federal departments and agencies, shall submit
25 a report to the Senate Committee on Commerce,

1 *Science, and Transportation and the House of Rep-*
2 *resentatives Committee on Transportation and Infra-*
3 *structure on the transportation of hazardous material*
4 *in all modes of transportation during the preceding*
5 *3 calendar years. Each report shall include, for the*
6 *period covered by such report—*

7 *“(A) a summary of the hazardous material*
8 *shipments, deliveries, and movements during*
9 *such period, set forth by hazardous materials*
10 *type, by tonnage and ton-miles, and by mode,*
11 *both domestically and across United States bor-*
12 *ders; and*

13 *“(B) a summary of shipment estimates dur-*
14 *ing such period as a proxy for risk.*

15 *“(i) SECURITY SENSITIVE INFORMATION.—*

16 *“(1) If the Secretary determines that particular*
17 *information may reveal a vulnerability of a haz-*
18 *ardous material to attack during transportation in*
19 *commerce, or may facilitate the diversion of haz-*
20 *ardous material during transportation in commerce*
21 *for use in an attack on people or property, the Sec-*
22 *retary may disclose such information only—*

23 *“(A) to the owner, custodian, offeror, or car-*
24 *rier of such hazardous material;*

1 “(B) to an officer, employee, or agent of the
2 United States Government, or a State or local
3 government, including volunteer fire depart-
4 ments, concerned with carrying out transpor-
5 tation safety laws, protecting hazardous material
6 in the course of transportation in commerce, pro-
7 tecting public safety or national security, or en-
8 forcing Federal law designed to protect public
9 health or the environment; or

10 “(C) in an administrative or judicial pro-
11 ceeding brought under this chapter, under other
12 Federal law intended to protect public health or
13 the environment, or under other Federal law in-
14 tended to address terrorist actions or threats of
15 terrorist actions.

16 “(2) The Secretary may make determinations
17 under paragraph (1) of this subsection with respect
18 categories of information in accordance with regula-
19 tions prescribed by the Secretary.

20 “(3) A release of information pursuant to a de-
21 termination under paragraph (1) of this subsection
22 shall not be treated as a release of such information
23 to the public for purposes of section 552 of title 5.”.

1 **SEC. 4440. ENFORCEMENT.**

2 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—Section 5122(a) is amended by striking “of
3 *Transportation*”.

5 (b) *GENERAL.*—Section 5122(a) is further amended—

6 (1) by striking “chapter or a regulation pre-
7 scribed or order” in the first sentence and inserting
8 “chapter, a regulation prescribed under this chapter,
9 or an order, special permit, or approval”; and

10 (2) by striking the second sentence and inserting
11 “In an action under this subsection, the court may
12 award appropriate relief, including a temporary or
13 permanent injunction, civil penalties under section
14 5123 of this title, and punitive damages.”.

15 (c) *IMMINENT HAZARDS.*—Section 5122(b)(1)(B) is
16 amended by striking “ameliorate” and inserting “miti-
17 gate”.

18 **SEC. 4441. CIVIL PENALTIES.**

19 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—Section 5123(b) is amended by striking “of
20 *Transportation*”.

22 (b) *PENALTY.*—Section 5123(a)(1) is amended—

23 (1) by striking “chapter or a regulation pre-
24 scribed or order” and inserting “chapter, a regulation
25 prescribed under this chapter, or an order, special
26 permit, or approval”; and

1 (2) *by striking “\$25,000” and inserting*
2 *“\$100,000”.*

3 (c) *HEARING REQUIREMENT.—Section 5123(b) is*
4 *amended by striking “chapter or a regulation prescribed”*
5 *and inserting “chapter, a regulation prescribed under this*
6 *chapter, or an order, special permit, or approval issued”.*

7 (d) *CIVIL ACTIONS TO COLLECT.—Section 5123(d) is*
8 *amended by striking “section.” and inserting “section and*
9 *any accrued interest on the civil penalty as calculated in*
10 *accordance with section 1005 of the Oil Pollution Act of*
11 *1990 (33 U.S.C. 2705). In the civil action, the amount and*
12 *appropriateness of the civil penalty shall not be subject to*
13 *review.”.*

14 (e) *EFFECTIVE DATE.—(1) The amendments made by*
15 *subsections (b) and (c) of this section shall take effect on*
16 *the date of the enactment of this Act, and shall apply with*
17 *respect to violations described in section 5123(a) of title 49,*
18 *United States Code (as amended by this section), that occur*
19 *on or after that date.*

20 (2) *The amendment made by subsection (d) of this sec-*
21 *tion shall apply with respect to civil penalties imposed on*
22 *violations described in section 5123(a) of title 49, United*
23 *States Code (as amended by this section), which violations*
24 *occur on or after the date of the enactment of this Act.*

1 **SEC. 4442. CRIMINAL PENALTIES.**

2 (a) *IN GENERAL.*—Section 5124 is amended—

3 (1) by inserting “(a) *IN GENERAL.*—” before “A
4 person”; and

5 (2) by striking “chapter or a regulation pre-
6 scribed or order” and inserting “chapter, a regulation
7 prescribed under this chapter, or an order, special
8 permit, or approval”.

9 (b) *ADDITIONAL MATTERS.*—That section is further
10 amended by adding at the end the following:

11 “(b) *AGGRAVATED VIOLATIONS.*—A person knowingly
12 violating section 5104(b) of this title or willfully violating
13 this chapter or a regulation prescribed, or an order, special
14 permit, or approval issued, under this chapter, who thereby
15 causes the release of hazardous material shall be fined under
16 title 18, imprisoned for not more than 20 years, or both.

17 “(c) *SEPARATE VIOLATIONS.*—A separate violation oc-
18 curs for each day the violation, committed by a person who
19 transports or causes to be transported hazardous material,
20 continues.”.

21 **SEC. 4443. PREEMPTION.**

22 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
23 *TATION.*—Section 5125(b)(2) is amended by striking “of
24 Transportation”.

25 (b) *PURPOSES.*—Section 5125 is amended—

1 (1) by redesignating subsections (a), (b), (c), (d),
2 (e), (f), and (g) as subsections (b), (c), (d), (e), (f),
3 (g), and (h), respectively;

4 (2) by inserting before subsection (b), as so redesi-
5 gnated, the following:

6 “(a) *PURPOSES.*—*The Secretary shall exercise the au-*
7 *thority in this section—*

8 *“(1) to achieve uniform regulation of the trans-*
9 *portation of hazardous material;*

10 *“(2) to eliminate rules that are inconsistent with*
11 *the regulations prescribed under this chapter; and*

12 *“(3) to otherwise promote the safe and efficient*
13 *movement of hazardous material in commerce.”;*

14 (3) by striking subsection (g), as redesignated;
15 and

16 (4) by redesignating subsection (h), as redesi-
17 gnated, as subsection (g).

18 (c) *GENERAL PREEMPTION.*—*Section 5125(b), as re-*
19 *designated by subsection (b)(1) of this section, is further*
20 *amended by striking “GENERAL.—Except as provided in*
21 *subsection (b), (c), and (e)” and inserting “PREEMPTION*
22 *GENERALLY.—Except as provided in subsections (c), (d),*
23 *and (f)”.*

24 (d) *SUBSTANTIVE DIFFERENCES.*—*Section 5125(c), as*
25 *so redesignated, is further amended—*

1 (1) *in the matter preceding subparagraph (A) of*
2 *paragraph (1), by striking “subsection (c)” and in-*
3 *serting “subsection (d)”;*

4 (2) *by striking subparagraph (E) of paragraph*
5 *(1) and inserting the following:*

6 “*(E) the manufacturing, designing, inspecting,*
7 *testing, reconditioning, or repairing of a packaging or*
8 *packaging component that is represented as qualified*
9 *for use in transporting hazardous material in com-*
10 *merce.”; and*

11 (3) *by striking “prescribes after November 16,*
12 *1990. However, the” in paragraph (2) and inserting*
13 *“prescribes. The”.*

14 (e) *DECISIONS ON PREEMPTION.—Section 5125(e), as*
15 *so redesignated, is further amended by striking “subsection*
16 *(a), (b)(1), or (c) of this section.” in the first sentence and*
17 *inserting “subsection (b), (c)(1), or (d) of this section or*
18 *section 5119(b) of this title.”.*

19 (f) *WAIVER OF PREEMPTION.—Section 5125(f), as so*
20 *redesignated, is further amended by striking “subsection*
21 *(a), (b)(1), or (c) of this section.” and inserting “subsection*
22 *(b), (c)(1), or (d) of this section or section 5119(b) of this*
23 *title.”.*

24 (g) *EMERGENCY WAIVER OF PREEMPTION; ADDI-*
25 *TIONAL MATTERS.—Section 5125 is further amended—*

1 (1) *by redesignating subsection (g), as redesignated by subsection (b)(4) of this section, as subsection (j); and*

2
3
4 (2) *by inserting after subsection (f), as redesignated by subsection (b)(1) of this section, the following:*

5
6
7 “(g) *EMERGENCY WAIVER OF PREEMPTION.—*

8 “(1) *The Secretary may, upon a finding of good cause, waive the preemption of a requirement of a State, political subdivision of a State, or Indian tribe under this section without prior notice or an opportunity for public comment thereon.*

9
10
11
12
13 “(2) *For purposes of paragraph (1) of this subsection, good cause exists when—*

14
15 “(A) *there is a potential threat that hazardous material being transported in commerce may be used in an attack on people or property;*
16
17
18 *and*

19 “(B) *notice and an opportunity for public comment thereon are impracticable or contrary to the public interest.*

20
21
22 “(3)(A) *A waiver of preemption under paragraph (1) of this subsection shall be in effect for a period specified by the Secretary, but not more than 6 months.*
23
24
25

1 “(B) If the Secretary determines before the expi-
2 ration of a waiver of preemption under subparagraph
3 (A) of this paragraph that the potential threat pro-
4 viding the basis for the waiver continues to exist, the
5 Secretary may, after providing notice and an oppor-
6 tunity for public comment thereon, extend the dura-
7 tion of the waiver for such period after the expiration
8 of the waiver under that subparagraph as the Sec-
9 retary considers appropriate.

10 “(4) An action of the Secretary under paragraph
11 (1) or (3) of this subsection shall be in writing and
12 shall set forth the standards and procedures for seek-
13 ing reconsideration of the action.

14 “(5) After taking action under paragraph (1) or
15 (3) of this subsection, the Secretary shall provide for
16 review of the action if a petition for review of the ac-
17 tion is filed within 20 calendar days after the date
18 of the action.

19 “(6) If a petition for review of an action is filed
20 under paragraph (5) of this subsection and review of
21 the action is not completed by the end of the 30-day
22 period beginning on the date the petition is filed, the
23 waiver under this subsection shall cease to be effective
24 at the end of such period unless the Secretary deter-

1 *mines, in writing, that the potential threat providing*
2 *the basis for the waiver continues.*

3 “(h) *APPLICATION OF EACH PREEMPTION STAND-*
4 *ARD.—Each standard for preemption in subsection (b),*
5 *(c)(1), or (d) of this section, and in section 5119(b) of this*
6 *title, is independent in its application to a requirement of*
7 *a State, political subdivision of a State, or Indian tribe.*

8 “(i) *NON-FEDERAL ENFORCEMENT STANDARDS.—*
9 *This section does not apply to any procedure, penalty, re-*
10 *quired mental state, or other standard utilized by a State,*
11 *political subdivision of a State, or Indian tribe to enforce*
12 *a requirement applicable to the transportation of hazardous*
13 *material.”.*

14 **SEC. 4444. RELATIONSHIP TO OTHER LAWS.**

15 *Section 5126 is amended—*

16 (1) *by striking “or causes to be transported haz-*
17 *ardous material,” in subsection (a) and inserting*
18 *“hazardous material, or causes hazardous material to*
19 *be transported,”;*

20 (2) *by striking “manufactures,” and all that fol-*
21 *lows through “or sells” in subsection (a) and inserting*
22 *“manufactures, designs, inspects, tests, reconditions,*
23 *marks, or repairs a packaging or packaging compo-*
24 *nent that is represented”;*

1 (3) by striking “must” in subsection (a) and in-
2 serting “shall”;

3 (4) by striking “manufacturing,” in subsection
4 (a) and all that follows through “testing” and insert-
5 ing “manufacturing, designing, inspecting, testing,
6 reconditioning, marking, or repairing”; and

7 (5) by striking “39.” in subsection (b)(2) and in-
8 serting “39, except in the case of an imminent haz-
9 ard.”.

10 **SEC. 4445. JUDICIAL REVIEW.**

11 (a) *IN GENERAL.*—Chapter 51 is amended—

12 (1) by redesignating section 5127 as section
13 5128; and

14 (2) by inserting after section 5126 the following:

15 **“§ 5127. Judicial review**

16 “(a) *FILING AND VENUE.*—Except as provided in sec-
17 tion 20114(c) of this title, a person suffering legal wrong
18 or adversely affected or aggrieved by a final action of the
19 Secretary under this chapter may petition for review of the
20 final action in the United States Court of Appeals for the
21 District of Columbia or in the court of appeals of the United
22 States for the circuit in which the person or resides or has
23 the principal place of business. The petition shall be filed
24 not more than 60 days after the action of the Secretary be-
25 comes final.

1 “(b) *PROCEDURES.*—When a petition on a final action
2 is filed under subsection (a) of this section, the clerk of the
3 court shall immediately send a copy of the petition to the
4 Secretary. The Secretary shall file with the court a record
5 of any proceeding in which the final action was issued as
6 provided in section 2112 of title 28.

7 “(c) *AUTHORITY OF COURT.*—The court in which a pe-
8 tition on a final action is filed under subsection (a) of this
9 section has exclusive jurisdiction, as provided in subchapter
10 II of chapter 5 of title 5 to affirm or set aside any part
11 of the final action and may order the Secretary to conduct
12 further proceedings. Findings of fact by the Secretary, if
13 supported by substantial evidence, are conclusive.

14 “(d) *REQUIREMENT FOR PRIOR OBJECTIONS.*—In re-
15 viewing a final action under this section, the court may
16 consider an objection to the final action only if—

17 “(1) the objection was made in the course of a
18 proceeding or review conducted by the Secretary; or

19 “(2) there was a reasonable ground for not mak-
20 ing the objection in the proceeding.”.

21 “(b) *CLERICAL AMENDMENT.*—The chapter analysis for
22 chapter 51 is amended by striking the item relating to sec-
23 tion 5127 and inserting the following:

“5127. *Judicial review.*

“5128. *Authorization of appropriations.*”.

1 **SEC. 4446. AUTHORIZATION OF APPROPRIATIONS.**

2 *Section 5128, as redesignated by section 4445 of this*
3 *title, is amended to read as follows:*

4 **“§ 5128. Authorization of appropriations**

5 *“(a) GENERAL.—In order to carry out this chapter*
6 *(except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116,*
7 *and 5119 of this title), the following amounts are authorized*
8 *to be appropriated to the Secretary:*

9 *“(1) For fiscal year 2004, not more than*
10 *\$24,981,000.*

11 *“(2) For fiscal year 2005, not more than*
12 *\$27,000,000.*

13 *“(3) For fiscal year 2006, not more than*
14 *\$29,000,000.*

15 *“(4) For each of fiscal years 2007 through 2009,*
16 *not more than \$30,000,000.*

17 *“(b) EMERGENCY PREPAREDNESS FUND.—There shall*
18 *be available from the Emergency Preparedness Fund under*
19 *section 5116(i) of this title, amounts as follows:*

20 *“(1) To carry out section 5107(e) of this title,*
21 *\$4,000,000 for each of fiscal years 2004 through 2009.*

22 *“(2) To carry out section 5115 of this title,*
23 *\$200,000 for each of fiscal years 2004 through 2009.*

24 *“(3) To carry out section 5116(a) of this title,*
25 *\$8,000,000 for each of fiscal years 2004 through 2009.*

1 “(4) To carry out section 5116(b) of this title,
2 \$13,800,000 for each of fiscal years 2004 through
3 2009.

4 “(5) To carry out section 5116(f) of this title,
5 \$150,000 for each of fiscal years 2004 through 2009.

6 “(6) To carry out section 5116(i)(4) of this title,
7 \$150,000 for each of fiscal years 2004 through 2009.

8 “(7) To carry out section 5116(j) of this title,
9 \$1,000,000 for each of fiscal years 2004 through 2009.

10 “(8) To publish and distribute an emergency re-
11 sponse guidebook under section 5116(i)(3) of title 49,
12 United States Code, \$500,000 for each of fiscal years
13 2004 through 2009.

14 “(c) SECTION 5121 REPORTS.—There are authorized
15 to be appropriated to the Secretary of Transportation for
16 the use of the Bureau of Transportation Statistics such
17 sums as may be necessary to carry out section 5121(h) of
18 this title.”.

19 “(d) CREDIT TO APPROPRIATIONS.—The Secretary
20 may credit to any appropriation to carry out this chapter
21 an amount received from a State, political subdivision of
22 a State, Indian tribe, or other public authority or private
23 entity for expenses the Secretary incurs in providing train-
24 ing to the State, political subdivision, Indian tribe, or other
25 authority or entity.

1 “(e) *AVAILABILITY OF AMOUNTS.*—Amounts available
2 under subsections (a) and (b) of this section shall remain
3 available until expended.”.

4 **SEC. 4447. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.**

5 (a) *TITLE 49 PENALTIES.*—Section 46312 is amend-
6 ed—

7 (1) by striking “part—” in subsection (a) and
8 inserting “part or chapter 51 of this title—”; and

9 (2) by inserting “or chapter 51 of this title” in
10 subsection (b) after “under this part”.

11 (b) *TITLE 18 PENALTIES.*—Section 3663(a)(1)(A) of
12 title 18, United States Code, is amended by inserting
13 “5124,” before “46312,”.

14 **PART II—OTHER MATTERS**

15 **SEC. 4461. ADMINISTRATIVE AUTHORITY FOR RESEARCH**
16 **AND SPECIAL PROGRAMS ADMINISTRATION.**

17 Section 112 is amended—

18 (1) by redesignating subsection (e) as subsection
19 (f); and

20 (2) by inserting after subsection (d) the fol-
21 lowing:

22 “(e) *ADMINISTRATIVE AUTHORITIES.*—

23 “(1) *GRANTS, COOPERATIVE AGREEMENTS, AND*
24 *OTHER TRANSACTIONS.*—The Administrator may
25 enter into grants, cooperative agreements, and other

1 *transactions with Federal agencies, State and local*
2 *government agencies, other public entities, private or-*
3 *ganizations, and other persons—*

4 *“(A) to conduct research into transportation*
5 *service and infrastructure assurance; and*

6 *“(B) to carry out other research activities of*
7 *the Administration.*

8 *“(2) LIMITATION ON DISCLOSURE OF CERTAIN*
9 *INFORMATION.—*

10 *“(A) LIMITATION.—If the Administrator de-*
11 *termines that particular information developed*
12 *in research sponsored by the Administration*
13 *may reveal a systemic vulnerability of transpor-*
14 *tation service or infrastructure, such information*
15 *may be disclosed only to—*

16 *“(i) a person responsible for the secu-*
17 *rity of the transportation service or infra-*
18 *structure; or*

19 *“(ii) a person responsible for pro-*
20 *tecting public safety; or*

21 *“(iii) an officer, employee, or agent of*
22 *the Federal Government, or a State or local*
23 *government, who, as determined by the Ad-*
24 *ministrator, has need for such information*
25 *in the performance of official duties.*

1 “(B) *TREATMENT OF RELEASE.*—*The re-*
2 *lease of information under subparagraph (A)*
3 *shall not be treated as a release to the public for*
4 *purposes of section 552 of title 5.*”.

5 **SEC. 4462. MAILABILITY OF HAZARDOUS MATERIALS.**

6 (a) *NONMAILABILITY GENERALLY.*—*Section 3001 of*
7 *title 39, United States Code, is amended—*

8 (1) *by redesignating subsection (n) as subsection*
9 *(o); and*

10 (2) *by inserting after subsection (m) the fol-*
11 *lowing:*

12 “(n)(1) *Except as otherwise authorized by law or regu-*
13 *lations of the Postal Service under section 3018 of this title,*
14 *hazardous material is nonmailable.*

15 “(2) *In this subsection, the term ‘hazardous material’*
16 *means a substance or material designated by the Secretary*
17 *of Transportation as hazardous material under section*
18 *5103(a) of title 49.*”.

19 (b) *MAILABILITY.*—

20 (1) *IN GENERAL.*—*Chapter 30 of title 39, United*
21 *States Code, is amended by adding at the end the fol-*

22 *lowing:*

1 **“§ 3018. Hazardous material**

2 “(a) *IN GENERAL.*—*The Postal Service shall prescribe*
3 *regulations for the safe transportation of hazardous mate-*
4 *rial in the mails.*

5 “(b) *PROHIBITIONS.*—*No person may—*

6 “(1) *mail or cause to be mailed hazardous mate-*
7 *rial that has been declared by statute or Postal Serv-*
8 *ice regulation to be nonmailable;*

9 “(2) *mail or cause to be mailed hazardous mate-*
10 *rial in violation of any statute or Postal Service reg-*
11 *ulation restricting the time, place, or manner in*
12 *which hazardous material may be mailed; or*

13 “(3) *manufacture, distribute, or sell any con-*
14 *tainer, packaging kit, or similar device that—*

15 “(A) *is represented, marked, certified, or*
16 *sold by such person for use in the mailing of*
17 *hazardous material; and*

18 “(B) *fails to conform with any statute or*
19 *Postal Service regulation setting forth standards*
20 *for a container, packaging kit, or similar device*
21 *used for the mailing of hazardous material.*

22 “(c) *CIVIL PENALTY.*—

23 “(1) *IN GENERAL.*—*A person who knowingly vio-*
24 *lates this section or a regulation prescribed under this*
25 *section shall be liable to the Postal Service for—*

1 “(A) a civil penalty of at least \$250, but
2 not more than \$100,000, for each violation;

3 “(B) the costs of any clean-up associated
4 with such violation; and

5 “(C) damages.

6 “(2) *KNOWING ACTION*.—A person acts know-
7 ingly for purposes of paragraph (1) when—

8 “(A) the person has actual knowledge of the
9 facts giving rise to the violation; or

10 “(B) a reasonable person acting in the cir-
11 cumstances and exercising reasonable care would
12 have had that knowledge.

13 “(3) *KNOWLEDGE OF STATUTE OR REGULATION*
14 *NOT ELEMENT OF OFFENSE*.—Knowledge of the exist-
15 ence of a statutory provision or Postal Service regula-
16 tion is not an element of an offense under this sub-
17 section.

18 “(4) *SEPARATE VIOLATIONS*.—

19 “(A) *VIOLATIONS OVER TIME*.—A separate
20 violation under this subsection occurs for each
21 day hazardous material, mailed or cause to be
22 mailed in noncompliance with this section, is in
23 the mail.

24 “(B) *SEPARATE ITEMS*.—A separate viola-
25 tion under this subsection occurs for each item

1 *containing hazardous material that is mailed or*
2 *caused to be mailed in noncompliance with this*
3 *section.*

4 “(d) *HEARINGS.—The Postal Service may determine*
5 *that a person has violated this section or a regulation pre-*
6 *scribed under this section only after notice and an oppor-*
7 *tunity for a hearing.*

8 “(e) *PENALTY CONSIDERATIONS.—In determining the*
9 *amount of a civil penalty for a violation of this section,*
10 *the Postal Service shall consider—*

11 “(1) *the nature, circumstances, extent, and grav-*
12 *ity of the violation;*

13 “(2) *with respect to the person who committed*
14 *the violation, the degree of culpability, any history of*
15 *prior violations, the ability to pay, and any effect on*
16 *the ability to continue in business;*

17 “(3) *the impact on Postal Service operations;*
18 *and*

19 “(4) *any other matters that justice requires.*

20 “(f) *CIVIL ACTIONS TO COLLECT.—*

21 “(1) *IN GENERAL.—In accordance with section*
22 *4409(d) of this title, a civil action may be commenced*
23 *in an appropriate district court of the United States*
24 *to collect a civil penalty, clean-up costs, and damages*
25 *assessed under subsection (c).*

1 “(2) *LIMITATION.*—*In a civil action under para-*
2 *graph (1), the validity, amount, and appropriateness*
3 *of the civil penalty, clean-up costs, and damages cov-*
4 *ered by the civil action shall not be subject to review.*

5 “(3) *COMPROMISE.*—*The Postal Service may*
6 *compromise the amount a civil penalty, clean-up*
7 *costs, and damages assessed under subsection (c) be-*
8 *fore commencing a civil action with respect to such*
9 *civil penalty, clean-up costs, and damages under*
10 *paragraph (1).*

11 “(g) *CIVIL JUDICIAL PENALTIES.*—

12 “(1) *IN GENERAL.*—*At the request of the Postal*
13 *Service, the Attorney General may bring a civil ac-*
14 *tion in an appropriate district court of the United*
15 *States to enforce this section or a regulation pre-*
16 *scribed under this section.*

17 “(2) *RELIEF.*—*The court in a civil action under*
18 *paragraph (1) may award appropriate relief, includ-*
19 *ing a temporary or permanent injunction, civil pen-*
20 *alties as determined in accordance with this section,*
21 *or punitive damages.*

22 “(3) *CONSTRUCTION.*—*A civil action under this*
23 *subsection shall be in lieu of civil penalties for the*
24 *same violation under subsection (c)(1)(A).*

1 “(h) *DEPOSIT OF AMOUNTS COLLECTED.*—Amounts
2 collected under this section shall be deposited into the Postal
3 Service Fund under section 2003 of this title.”.

4 (2) *CONFORMING AMENDMENT.*—The chapter
5 analysis for chapter 30 of title 39, United States
6 Code, is amended by adding at the end the following:

“3018. Hazardous material.”.

7 (c) *CONFORMING AMENDMENT.*—Section 2003(b) of
8 title 39, United States Code, is amended—

9 (1) by striking “and” after the semicolon in
10 paragraph (7);

11 (2) by striking “purposes.” in paragraph (8)
12 and inserting “purposes; and”; and

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

14 “(9) any amounts collected under section 3018 of
15 this title.”.

16 **SEC. 4463. CRIMINAL MATTERS.**

17 Section 845(a)(1) of title 18, United States Code, is
18 amended by striking “which are regulated” and all that fol-
19 lows and inserting “that is subject to the authority of the
20 Departments of Transportation and Homeland Security;”.

21 **SEC. 4464. CARGO INSPECTION PROGRAM.**

22 (a) *IN GENERAL.*—The Secretary of Transportation
23 may establish a program of random inspections of cargo
24 at points of entry into the United States for the purpose
25 of determining the extent to which undeclared hazardous

1 *material is being offered for transportation in commerce*
2 *through such points of entry.*

3 (b) *INSPECTIONS.*—*Under the program under sub-*
4 *section (a)—*

5 (1) *an officer of the Department of Transpor-*
6 *tation who is not located at a point of entry into the*
7 *United States may select at random cargo shipments*
8 *at points of entry into the United States for inspec-*
9 *tion; and*

10 (2) *an officer or employee of the Department*
11 *may open and inspect each cargo shipment so selected*
12 *for the purpose described in subsection (a).*

13 (c) *COORDINATION.*—*The Secretary of Transportation*
14 *shall coordinate any inspections under the program under*
15 *subsection (a) with the Secretary of Homeland Security.*

16 (d) *DISPOSITION OF HAZARDOUS MATERIALS.*—*The*
17 *Secretary of Transportation shall provide for the appro-*
18 *priate handling and disposition of any hazardous material*
19 *discovered pursuant to inspections under the program*
20 *under subsection (a).*

21 **SEC. 4465. INFORMATION ON HAZMAT REGISTRATIONS.**

22 *The Administrator of the Department of Transpor-*
23 *tation's Research and Special Programs Administration*
24 *shall—*

1 (1) *transmit current hazardous material reg-*
2 *istrant information to the Federal Motor Carrier*
3 *Safety Administration to cross reference the reg-*
4 *istrant's Federal motor carrier registration number;*
5 *and*

6 (2) *notify the Federal Motor Carrier Safety Ad-*
7 *ministration immediately, and provide a registrant's*
8 *United States Department of Transportation identi-*
9 *fication number to the Administration, whenever a*
10 *new registrant registers to transport hazardous mate-*
11 *rials as a motor carrier.*

12 **SEC. 4466. REPORT ON APPLYING HAZARDOUS MATERIALS**
13 **REGULATIONS TO PERSONS WHO REJECT**
14 **HAZARDOUS MATERIALS.**

15 *Within 6 months after the date of enactment of this*
16 *Act, the Secretary of Transportation shall complete an as-*
17 *essment of the costs and benefits of subjecting persons who*
18 *reject hazardous material for transportation in commerce*
19 *to the hazardous materials laws and regulations. In com-*
20 *pleting this assessment, the Secretary shall—*

21 (1) *estimate the number of affected employers*
22 *and employees;*

23 (2) *determine what actions would be required by*
24 *them to comply with such laws and regulations; and*

1 (3) consider whether and to what extent the ap-
 2 plication of Federal hazardous materials laws and
 3 regulations should be limited to—

4 (A) particular modes of transportation;

5 (B) certain categories of employees; or

6 (C) certain classes or categories of haz-
 7 ardous materials.

8 **PART III—SANITARY FOOD TRANSPORTATION**

9 **SEC. 4481. SHORT TITLE.**

10 This part may be cited as the “Sanitary Food Trans-
 11 portation Act of 2004”.

12 **SEC. 4482. RESPONSIBILITIES OF THE SECRETARY OF**
 13 **HEALTH AND HUMAN SERVICES.**

14 (a) **UNSANITARY TRANSPORT DEEMED ADULTERA-**
 15 **TION.**—Section 402 of the Federal Food, Drug, and Cos-
 16 metic Act (21 U.S.C. 342) is amended by adding at the
 17 end the following:

18 “(i) **NONCOMPLIANCE WITH SANITARY TRANSPOR-**
 19 **TATION PRACTICES.**—If the food is transported under con-
 20 ditions that are not in compliance with the sanitary trans-
 21 portation practices prescribed by the Secretary under sec-
 22 tion 416.”.

23 (b) **SANITARY TRANSPORTATION REQUIREMENTS.**—
 24 Chapter IV of the Federal Food, Drug, and Cosmetic Act

1 *(21 U.S.C. 341 et seq.) is amended by adding at the end*
2 *the following:*

3 **“SEC. 416. SANITARY TRANSPORTATION PRACTICES.**

4 “(a) *DEFINITIONS.*—*In this section:*

5 “(1) *BULK VEHICLE.*—*The term ‘bulk vehicle’ in-*
6 *cludes a tank truck, hopper truck, rail tank car, hop-*
7 *per car, cargo tank, portable tank, freight container,*
8 *or hopper bin, and any other vehicle in which food*
9 *is shipped in bulk, with the food coming into direct*
10 *contact with the vehicle.*

11 “(2) *TRANSPORTATION.*—*The term ‘transport-*
12 *ation’ means any movement in commerce by motor*
13 *vehicle or rail vehicle.*

14 “(b) *REGULATIONS.*—*The Secretary shall by regula-*
15 *tion require shippers, carriers by motor vehicle or rail vehi-*
16 *cle, receivers, and other persons engaged in the transport-*
17 *ation of food to use sanitary transportation practices pre-*
18 *scribed by the Secretary to ensure that food is not trans-*
19 *ported under conditions that may render the food adulter-*
20 *ated.*

21 “(c) *CONTENTS.*—*The regulations shall—*

22 “(1) *prescribe such practices as the Secretary de-*
23 *termines to be appropriate relating to—*

24 “(A) *sanitation;*

1 “(B) packaging, isolation, and other protec-
2 tive measures;

3 “(C) limitations on the use of vehicles;

4 “(D) information to be disclosed—

5 “(i) to a carrier by a person arranging
6 for the transport of food; and

7 “(ii) to a manufacturer or other person
8 that—

9 “(I) arranges for the transpor-
10 tation of food by a carrier; or

11 “(II) furnishes a tank vehicle or
12 bulk vehicle for the transportation of
13 food; and

14 “(E) recordkeeping; and

15 “(2) include—

16 “(A) a list of nonfood products that the Sec-
17 retary determines may, if shipped in a bulk ve-
18 hicle, render adulterated food that is subse-
19 quently transported in the same vehicle; and

20 “(B) a list of nonfood products that the Sec-
21 retary determines may, if shipped in a motor ve-
22 hicle or rail vehicle (other than a tank vehicle or
23 bulk vehicle), render adulterated food that is si-
24 multaneously or subsequently transported in the
25 same vehicle.

1 “(d) *WAIVERS.*—

2 “(1) *IN GENERAL.*—*The Secretary may waive*
3 *any requirement under this section, with respect to*
4 *any class of persons, vehicles, food, or nonfood prod-*
5 *ucts, if the Secretary determines that the waiver—*

6 “(A) *will not result in the transportation of*
7 *food under conditions that would be unsafe for*
8 *human or animal health; and*

9 “(B) *will not be contrary to the public in-*
10 *terest.*

11 “(2) *PUBLICATION.*—*The Secretary shall publish*
12 *in the Federal Register any waiver and the reasons*
13 *for the waiver.*

14 “(e) *PREEMPTION.*—

15 “(1) *IN GENERAL.*—*No State or political sub-*
16 *division of a State may directly or indirectly estab-*
17 *lish or continue in effect, as to any food in interstate*
18 *commerce, any authority or requirement concerning*
19 *transportation of food that is not identical to an au-*
20 *thority or requirement under this section.*

21 “(2) *APPLICABILITY.*—*This subsection applies to*
22 *transportation that occurs on or after the effective*
23 *date of the regulations promulgated under subsection*
24 *(b).*

1 “(f) *ASSISTANCE OF OTHER AGENCIES.*—The Sec-
2 retary of Transportation, the Secretary of Agriculture, the
3 Administrator of the Environmental Protection Agency,
4 and the heads of other Federal agencies, as appropriate,
5 shall provide assistance on request, to the extent resources
6 are available, to the Secretary for the purposes of carrying
7 out this section.”.

8 (c) *INSPECTION OF TRANSPORTATION RECORDS.*—

9 (1) *REQUIREMENT.*—Section 703 of the Federal
10 Food, Drug, and Cosmetic Act (21 U.S.C. 373) is
11 amended—

12 (A) by striking the section heading and all
13 that follows through “For the purpose” and in-
14 serting the following:

15 **“SEC. 703. RECORDS.**

16 “(a) *IN GENERAL.*—For the purpose”; and

17 (B) by adding at the end the following:

18 “(b) *FOOD TRANSPORTATION RECORDS.*—A shipper,
19 carrier by motor vehicle or rail vehicle, receiver, or other
20 person subject to section 416 shall, on request of an officer
21 or employee designated by the Secretary, permit the officer
22 or employee, at reasonable times, to have access to and to
23 copy all records that the Secretary requires to be kept under
24 section 416(c)(1)(E).”.

1 (2) *CONFORMING AMENDMENT.*—Subsection (a)
2 of section 703 of the Federal Food, Drug, and Cos-
3 metic Act (as designated by paragraph (1)(A)) is
4 amended by striking “carriers.” and inserting “car-
5 riers, except as provided in subsection (b)”.

6 (d) *PROHIBITED ACTS.*—

7 (1) *RECORDS INSPECTION.*—Section 301(e) of the
8 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
9 331(e)) is amended by inserting “416,” before “504,”
10 each place it appears.

11 (2) *UNSAFE FOOD TRANSPORTATION.*—Section
12 301 of the Federal Food, Drug, and Cosmetic Act (21
13 U.S.C. 331) is amended by adding at the end the fol-
14 lowing:

15 “(hh) *NONCOMPLIANCE WITH SANITARY TRANSPOR-*
16 *TATION PRACTICES.*—The failure by a shipper, carrier by
17 motor vehicle or rail vehicle, receiver, or any other person
18 engaged in the transportation of food to comply with the
19 sanitary transportation practices prescribed by the Sec-
20 retary under section 416.”.

21 **SEC. 4483. DEPARTMENT OF TRANSPORTATION REQUIRE-**
22 **MENTS.**

23 Chapter 57, is amended to read as follows:

1 **“CHAPTER 57—SANITARY FOOD**
2 **TRANSPORTATION**

“Sec.

“5701. *Food transportation safety inspections.*

3 **“§ 5701. Food transportation safety inspections**

4 “(a) *INSPECTION PROCEDURES.*—

5 “(1) *IN GENERAL.*—*The Secretary of Transpor-*
6 *tation, in consultation with the Secretary of Health*
7 *and Human Services and the Secretary of Agri-*
8 *culture, shall—*

9 “(A) *establish procedures for transportation*
10 *safety inspections for the purpose of identifying*
11 *suspected incidents of contamination or adulter-*
12 *ation of—*

13 “(i) *food in violation of regulations*
14 *promulgated under section 416 of the Fed-*
15 *eral Food, Drug, and Cosmetic Act; and*

16 “(ii) *meat subject to detention under*
17 *section 402 of the Federal Meat Inspection*
18 *Act (21 U.S.C. 672); and*

19 “(iii) *poultry products subject to deten-*
20 *tion under section 19 of the Poultry Prod-*
21 *ucts Inspection Act (21 U.S.C. 467a); and*

22 “(B) *train personnel of the Department of*
23 *Transportation in the appropriate use of the*
24 *procedures.*

1 “(2) *APPLICABILITY.*—*The procedures established*
 2 *under paragraph (1) of this subsection shall apply, at*
 3 *a minimum, to Department of Transportation per-*
 4 *sonnel that perform commercial motor vehicle or rail-*
 5 *road safety inspections.*

6 “(b) *NOTIFICATION OF SECRETARY OF HEALTH AND*
 7 *HUMAN SERVICES OR SECRETARY OF AGRICULTURE.*—*The*
 8 *Secretary of Transportation shall promptly notify the Sec-*
 9 *retary of Health and Human Services or the Secretary of*
 10 *Agriculture, as applicable, of any instances of potential food*
 11 *contamination or adulteration of a food identified during*
 12 *transportation safety inspections.*

13 “(c) *USE OF STATE EMPLOYEES.*—*The means by*
 14 *which the Secretary of Transportation carries out sub-*
 15 *section (b) of this section may include inspections conducted*
 16 *by State employees using funds authorized to be appro-*
 17 *priated under sections 31102 through 31104 of this title.”.*

18 **SEC. 4484. EFFECTIVE DATE.**

19 *This part takes effect on October 1, 2003.*

20 ***Subtitle E—Recreational Boating***
 21 ***Safety Programs***

22 **SEC. 4501. SHORT TITLE.**

23 *This subtitle may be cited as the “Sport Fishing and*
 24 *Recreational Boating Safety Act”.*

1 **PART I—FEDERAL AID IN SPORT FISH**

2 **RESTORATION ACT AMENDMENTS**

3 **SEC. 4521. AMENDMENT OF FEDERAL AID IN FISH RESTORA-**
4 **TION ACT.**

5 *Except as otherwise expressly provided, whenever in*
6 *this subtitle an amendment or repeal is expressed in terms*
7 *of an amendment to, or repeal of, a section or other provi-*
8 *sion, the reference shall be considered to be made to a section*
9 *or other provision of the Act entitled “An Act to provide*
10 *that the United States shall aid the States in fish restora-*
11 *tion and management projects, and for other purposes,” ap-*
12 *proved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).*

13 **SEC. 4522. AUTHORIZATION OF APPROPRIATIONS.**

14 *(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is*
15 *amended—*

16 *(1) by striking “the succeeding fiscal year.” in*
17 *the third sentence and inserting “succeeding fiscal*
18 *years.”; and*

19 *(2) by striking “in carrying on the research pro-*
20 *gram of the Fish and Wildlife Service in respect to*
21 *fish of material value for sport and recreation.” and*
22 *inserting “to supplement the 55.3 percent of each an-*
23 *annual appropriation to be apportioned among the*
24 *States, as provided for in section 4(b) of this title.”.*

25 *(b) CONFORMING AMENDMENTS.—*

1 (1) *IN GENERAL.*—Section 3 of the Dingell-John-
2 son Sport Fish Restoration Act (16 U.S.C. 777b) is
3 amended in the first sentence—

4 (A) by striking “Sport Fish Restoration Ac-
5 count” and inserting “Sport Fish Restoration
6 Trust Fund”; and

7 (B) by striking “that Account” and insert-
8 ing “that Trust Fund, except as provided in sec-
9 tion 9504(c) of the Internal Revenue Code of
10 1986”.

11 (2) *EFFECTIVE DATE.*—The amendments made
12 by paragraph (1) take effect on October 1, 2004.

13 **SEC. 4523. DIVISION OF ANNUAL APPROPRIATIONS.**

14 Section 4 (16 U.S.C. 777c) is amended—

15 (1) by striking subsections (a) through (d) and
16 redesignating subsections (e), (f), and (g) as sub-
17 sections (b), (c), and (d);

18 (2) by inserting before subsection (b), as redesign-
19 ated, the following:

20 “(a) *IN GENERAL.*—For fiscal years 2004 through
21 2009, each annual appropriation made in accordance with
22 the provisions of section 3 of this title shall be distributed
23 as follows:

24 (1) *COASTAL WETLANDS.*—18 percent to the
25 Secretary of the Interior for distribution as provided

1 *in the Coastal Wetlands Planning, Protection, and*
2 *Restoration Act (16 U.S.C. 3951 et seq.).*

3 “(2) *BOATING SAFETY*.—18 percent to the Sec-
4 *retary of Homeland Security for State recreational*
5 *boating safety programs under section 13106 of title*
6 *46, United States Code.*

7 “(3) *CLEAN VESSEL ACT*.—1.9 percent to the
8 *Secretary of the Interior for qualified projects under*
9 *section 5604(c) of the Clean Vessel Act of 1992 (33*
10 *U.S.C. 1322 note).*

11 “(4) *BOATING INFRASTRUCTURE*.—1.9 percent to
12 *the Secretary of the Interior for obligation for quali-*
13 *fied projects under section 7404(d) of the Sportfishing*
14 *and Boating Safety Act of 1998 (16 U.S.C. 777g-*
15 *1(d)).*

16 “(5) *NATIONAL OUTREACH AND COMMUNICA-*
17 *TIONS*.—1.9 percent to the *Secretary of the Interior*
18 *for the National Outreach and Communications Pro-*
19 *gram under section 8(d) of this title. Such amounts*
20 *shall remain available for 3 fiscal years, after which*
21 *any portion thereof that is unobligated by the Sec-*
22 *retary for that program may be expended by the Sec-*
23 *retary under subsection (b) of this section.*

24 “(6) *SET-ASIDE FOR EXPENSES FOR ADMINIS-*
25 *TRATION OF THIS CHAPTER*.—

1 “(A) *IN GENERAL.*—2.1 percent to the Sec-
2 *retary of the Interior for expenses for adminis-*
3 *tration incurred in implementation of this title,*
4 *in accordance with this section, section 9, and*
5 *section 14 of this title.*

6 “(B) *APPORTIONMENT OF UNOBLIGATED*
7 *FUNDS.*—*If any portion of the amount made*
8 *available to the Secretary under subparagraph*
9 *(A) remains unexpended and unobligated at the*
10 *end of a fiscal year, that portion shall be appor-*
11 *tioned among the States, on the same basis and*
12 *in the same manner as other amounts made*
13 *available under this title are apportioned among*
14 *the States under subsection (b) of this section,*
15 *within 60 days after the end of that fiscal year.*
16 *Any amount apportioned among the States*
17 *under this subparagraph shall be in addition to*
18 *any amounts otherwise available for appor-*
19 *tionment among the States under subsection (b) for*
20 *the fiscal year.”;*

21 (3) *by striking “of the Interior, after the dis-*
22 *tribution, transfer, use, and deduction under sub-*
23 *sections (a), (b), (c), and (d), respectively, and after*
24 *deducting amounts used for grants under section 14,*
25 *shall apportion the remainder” in subsection (b), as*

1 *redesignated, and inserting “shall apportion 55.3 per-*
2 *cent”;*

3 *(4) by striking “per centum” each place it ap-*
4 *pears in subsection (b), as redesignated, and inserting*
5 *“percent”;*

6 *(5) by striking “subsections (a), (b)(3)(A),*
7 *(b)(3)(B), and (c)” in paragraph (1) of subsection*
8 *(d), as redesignated, and inserting “paragraphs (1),*
9 *(3), (4), and (5) of subsection (a)”;* and

10 *(6) by adding at the end the following:*

11 *“(e) TRANSFER OF CERTAIN FUNDS.—Amounts avail-*
12 *able under paragraphs (3) and (4) of subsection (a) that*
13 *are unobligated by the Secretary after 3 fiscal years shall*
14 *be transferred to the Secretary of Homeland Security and*
15 *shall be expended for State recreational boating safety pro-*
16 *grams under section 13106(a) of title 46, United States*
17 *Code.”.*

18 **SEC. 4524. MAINTENANCE OF PROJECTS.**

19 *Section 8 (16 U.S.C. 777g) is amended—*

20 *(1) by striking “in carrying out the research*
21 *program of the Fish and Wildlife Service in respect*
22 *to fish of material value for sport or recreation.” in*
23 *subsection (b)(2) and inserting “to supplement the*
24 *55.3 percent of each annual appropriation to be ap-*

1 *portioned among the States under section 4(b) of this*
2 *title.”; and*

3 *(2) by striking “subsection (c) or (d) of section*
4 *4” in subsection (d)(3) and inserting “paragraph (5)*
5 *or (6) of section 4(a)”.*

6 **SEC. 4525. BOATING INFRASTRUCTURE.**

7 *Section 7404(d)(1) of the Sportfishing and Boating*
8 *Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by*
9 *striking “section 4(b)(3)(B)” and inserting “section*
10 *4(a)(4)”.*

11 **SEC. 4526. REQUIREMENTS AND RESTRICTIONS CON-**
12 **CERNING USE OF AMOUNTS FOR EXPENSES**
13 **FOR ADMINISTRATION.**

14 *Section 9 (16 U.S.C. 777h) is amended—*

15 *(1) by striking “section 4(d)(1)” in subsection*
16 *(a) and inserting “section 4(a)(6)”;* and

17 *(2) by striking “section 4(d)(1)” in subsection*
18 *(b)(1) and inserting “section 4(a)(6)”.*

19 **SEC. 4527. PAYMENTS OF FUNDS TO AND COOPERATION**
20 **WITH PUERTO RICO, THE DISTRICT OF CO-**
21 **LUMBIA, GUAM, AMERICAN SAMOA, THE COM-**
22 **MONWEALTH OF THE NORTHERN MARIANA**
23 **ISLANDS, AND THE VIRGIN ISLANDS.**

24 *Section 12 (16 U.S.C. 777k) is amended by striking*
25 *“in carrying on the research program of the Fish and Wild-*

1 *life Service in respect to fish of material value for sport*
2 *or recreation.” and inserting “to supplement the 55.3 per-*
3 *cent of each annual appropriation to be apportioned among*
4 *the States under section 4(b) of this title.”.*

5 **SEC. 4528. MULTISTATE CONSERVATION GRANT PROGRAM.**

6 *Section 14 (16 U.S.C. 777m) is amended—*

7 *(1) by striking so much of subsection (a) as pre-*
8 *cedes paragraph (2) and inserting the following:*

9 *“(a) IN GENERAL.—*

10 *“(1) AMOUNT FOR GRANTS.—For each of fiscal*
11 *years 2004 through 2009, 0.9 percent of each annual*
12 *appropriation made in accordance with the provi-*
13 *sions of section 3 of this title shall be distributed to*
14 *the Secretary of the Interior for making multistate*
15 *conservation project grants in accordance with this*
16 *section.”;*

17 *(2) by striking “section 4(e)” each place it ap-*
18 *pears in subsection (a)(2)(B) and inserting “section*
19 *4(b)”;* and

20 *(3) by striking “Of the balance of each annual*
21 *appropriation made under section 3 remaining after*
22 *the distribution and use under subsections (a), (b),*
23 *and (c) of section 4 for each fiscal year and after de-*
24 *ducting amounts used for grants under subsection*
25 *(a)—” in subsection (e) and inserting “Of amounts*

1 *made available under section 4(a)(6) for each fiscal*
2 *year—”.*

3 **PART II—CLEAN VESSEL ACT AMENDMENTS**

4 **SEC. 4541. GRANT PROGRAM.**

5 *Section 5604(c)(2) of the Clean Vessel Act of 1992 (33*
6 *U.S.C. 1322 note) is amended—*

7 *(1) by striking subparagraph (A); and*

8 *(2) by redesignating subparagraphs (B) and (C)*
9 *as subparagraphs (A) and (B), respectively.*

10 **PART III—RECREATIONAL BOATING SAFETY**

11 **PROGRAM AMENDMENTS**

12 **SEC. 4561. STATE MATCHING FUNDS REQUIREMENT.**

13 *Section 13103(b) of title 46, United States Code, is*
14 *amended by striking “one-half” and inserting “75 percent”.*

15 **SEC. 4562. AVAILABILITY OF ALLOCATIONS.**

16 *Section 13104(a) of title 46, United States Code, is*
17 *amended—*

18 *(1) by striking “2 years” in paragraph (1) and*
19 *inserting “3 years”; and*

20 *(2) by striking “2-year” in paragraph (2) and*
21 *inserting “3-year”.*

1 **SEC. 4563. AUTHORIZATION OF APPROPRIATIONS FOR**
2 **STATE RECREATIONAL BOATING SAFETY PRO-**
3 **GRAMS.**

4 *Section 13106(c) of title 46, United States Code, is*
5 *amended—*

6 *(1) by striking “Secretary of Transportation*
7 *under paragraphs (2) and (3) of section 4(b)” and in-*
8 *serting “Secretary under subsections (a)(2) and (e) of*
9 *section 4”; and*

10 *(2) by inserting “a minimum of” before*
11 *“\$2,083,333”.*

12 **SEC. 4564. MAINTENANCE OF EFFORT FOR STATE REC-**
13 **REATIONAL BOATING SAFETY PROGRAMS.**

14 *(a) IN GENERAL.—Chapter 131 of title 46, United*
15 *States Code, is amended by inserting after section 13106*
16 *the following:*

17 **“§ 13107. Maintenance of effort for State recreational**
18 **boating safety programs**

19 *“(a) IN GENERAL.—The amount payable to a State*
20 *for a fiscal year from an allocation under section 13103*
21 *of this chapter shall be reduced if the usual amounts ex-*
22 *pended by the State for the State’s recreational boating safe-*
23 *ty program, as determined under section 13105 of this*
24 *chapter, for the previous fiscal year is less than the average*
25 *of the total of such expenditures for the 3 fiscal years imme-*
26 *diately preceding that previous fiscal year. The reduction*

1 *shall be proportionate, as a percentage, to the amount by*
2 *which the level of State expenditures for such previous fiscal*
3 *year is less than the average of the total of such expenditures*
4 *for the 3 fiscal years immediately preceding that previous*
5 *fiscal year.*

6 “(b) *REDUCTION OF THRESHHOLD.—If the total*
7 *amount available for allocation and distribution under this*
8 *chapter in a fiscal year for all participating State rec-*
9 *reational boating safety programs is less than such amount*
10 *for the preceding fiscal year, the level of State expenditures*
11 *required under subsection (a) of this section for the pre-*
12 *ceding fiscal year shall be decreased proportionately.*

13 “(c) *WAIVER.—*

14 “(1) *IN GENERAL.—Upon the written request of*
15 *a State, the Secretary may waive the provisions of*
16 *subsection (a) of this section for 1 fiscal year if the*
17 *Secretary determines that a reduction in expenditures*
18 *for the State’s recreational boating safety program is*
19 *attributable to a non- selective reduction in expendi-*
20 *tures for the programs of all Executive branch agen-*
21 *cies of the State government, or for other reasons if*
22 *the State demonstrates to the Secretary’s satisfaction*
23 *that such waiver is warranted.*

1 “(2) *30-DAY DECISION.*—*The Secretary shall ap-*
 2 *prove or deny a request for a waiver not later than*
 3 *30 days after the date the request is received.*”.

4 **(b) CONFORMING AMENDMENT.**—*The chapter analysis*
 5 *for chapter 131 of title 46, United States Code, is amended*
 6 *by inserting after the item relating to section 13106 the fol-*
 7 *lowing:*

 “13107. *Maintenance of effort for State recreational boating safety programs.*”.

8 **PART IV—MISCELLANEOUS**

9 **SEC. 4581. TECHNICAL CORRECTION TO HOMELAND SECU-**
 10 **RITY ACT.**

11 *Section 1511(e)(2) of the Homeland Security Act of*
 12 *2002 (Pub. L. 107-296) is amended by striking “and to any*
 13 *funds provided to the Coast Guard from the Aquatic Re-*
 14 *sources Trust Fund of the Highway Trust Fund for boating*
 15 *safety programs.” and inserting “and any funds provided*
 16 *to the Coast Guard from the Highway Trust Fund and*
 17 *transferred into the Sport Fish Restoration Account of the*
 18 *Aquatic Resources Trust Fund for boating safety pro-*
 19 *grams.”.*

20 **Subtitle F—Rail Transportation**

21 **PART I—AMTRAK**

22 **SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.**

23 *The text of section 24104 of title 49, United States*
 24 *Code, is amended to read as follows:*

1 *“There are authorized to be appropriated to the Sec-*
2 *retary of Transportation \$2,000,000,000 for each of fiscal*
3 *years 2004, 2005, 2006, 2007, 2008, and 2009 for the ben-*
4 *efit of Amtrak for operating expenses.”.*

5 **SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORA-**
6 **TION.**

7 *There is established a nonprofit corporation, to be*
8 *known as the “Build America Corporation”. The Build*
9 *America Corporation is not an agency or establishment of*
10 *the United States Government. The purpose of the Corpora-*
11 *tion is to support qualified projects described in section*
12 *4603(c)(2) through the issuance of Build America bonds.*
13 *The Corporation shall be subject, to the extent consistent*
14 *with this section, to the laws of the State of Delaware appli-*
15 *cable to corporations not for profit.*

16 **SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRA-**
17 **STRUCTURE.**

18 *(a) USE OF BOND PROCEEDS.—The proceeds from the*
19 *sale of—*

20 *(1) any bonds authorized, issued, or guaranteed*
21 *by the Federal Government that are available to fund*
22 *passenger rail projects pursuant to any Federal law*
23 *(enacted before, on, or after the date of the enactment*
24 *of this Act), and*

1 (2) *any Build America bonds issued by the*
2 *Build America Corporation as authorized by section*
3 4602,
4 *may be used to fund a qualified project if the Secretary*
5 *of Transportation determines that the qualified project is*
6 *a cost-effective alternative for efficiently maximizing mobil-*
7 *ity of individuals and goods.*

8 (b) *COMPLIANCE OF BENEFICIARIES WITH CERTAIN*
9 *STANDARDS.—A recipient of proceeds of a grant, loan, Fed-*
10 *eral tax-credit bonds, or any other form of financial assist-*
11 *ance provided under this title shall comply with the stand-*
12 *ards described in section 24312 of title 49, United States*
13 *Code, as in effect on June 25, 2003, with respect to any*
14 *qualified project described in subsection (c)(1) in the same*
15 *manner that the National Passenger Railroad Corporation*
16 *is required to comply with such standards for construction*
17 *work financed under an agreement entered into under sec-*
18 *tion 24308(a) of such title.*

19 (c) *QUALIFIED PROJECT DEFINED.—In this section—*

20 (1) *IN GENERAL.—Except as provided in para-*
21 *graph (2), the term “qualified project” means any*
22 *transportation infrastructure project of any govern-*
23 *mental unit or other person that is proposed by a*
24 *State, including a highway project, a transit system*

1 *project, a railroad project, an airport project, a port*
2 *project, and an inland waterways project.*

3 (2) *BUILD AMERICA CORPORATION PROJECTS.—*

4 (A) *IN GENERAL.—With respect to any*
5 *Build America bonds issued by the Build Amer-*
6 *ica Corporation as authorized by section 4602,*
7 *the term “qualified project” means any—*

8 (i) *qualified highway project,*

9 (ii) *qualified public transportation*
10 *project, and*

11 (iii) *congestion relief project,*

12 *proposed by 1 or more States and approved by*
13 *the Build America Corporation, which meets the*
14 *requirements under clauses (i), (ii), and (iii) of*
15 *subparagraph (D).*

16 (B) *QUALIFIED HIGHWAY PROJECT.—The*
17 *term “qualified highway project” means a*
18 *project for highway facilities or other facilities*
19 *which are eligible for assistance under title 23,*
20 *United States Code.*

21 (C) *QUALIFIED PUBLIC TRANSPORTATION*
22 *PROJECT.—The term “qualified public transpor-*
23 *tation project” means a project for public trans-*
24 *portation facilities or other facilities which are*

1 *eligible for assistance under chapter 53 of title*
2 *49, United States Code.*

3 (D) *CONGESTION RELIEF PROJECT.*—*The*
4 *term “congestion relief project” means an inter-*
5 *modal freight transfer facility, freight rail facil-*
6 *ity, freight movement corridor, intercity pas-*
7 *senger rail or facility, intercity bus vehicle or fa-*
8 *ility, border crossing facility, or other public or*
9 *private facility approved as a congestion relief*
10 *project by the Secretary of Transportation. In*
11 *making such approvals, the Secretary of Trans-*
12 *portation shall—*

13 (i) *consider the economic, environ-*
14 *mental, mobility, and national security im-*
15 *provements to be realized through the*
16 *project, and*

17 (ii) *give preference to projects with na-*
18 *tional or regional significance, including*
19 *any projects sponsored by a coalition of*
20 *States or a combination of States and pri-*
21 *vate sector entities, in terms of generating*
22 *economic benefits, supporting international*
23 *commerce, or otherwise enhancing the na-*
24 *tional transportation system.*

1 (D) *ADDITIONAL REQUIREMENTS FOR*
2 *QUALIFIED PROJECTS.*—*For purposes of sub-*
3 *paragraph (A)—*

4 (i) *COSTS OF QUALIFIED PROJECTS.*—
5 *The requirement of this clause is met if the*
6 *costs of the qualified project funded by*
7 *Build America bonds only relate to capital*
8 *investments in depreciable assets and do not*
9 *include any costs relating to operations,*
10 *maintenance, or rolling stock.*

11 (ii) *APPLICABILITY OF FEDERAL*
12 *LAW.*—*The requirement of this clause is met*
13 *if the requirements of any Federal law, in-*
14 *cluding titles 23, 40, and 49 of the United*
15 *States Code, which would otherwise apply*
16 *to projects to which the United States is a*
17 *party or to funds made available under*
18 *such law and projects assisted with those*
19 *funds are applied to—*

20 (I) *funds made available under*
21 *Build America bonds for similar quali-*
22 *fied projects, and*

23 (II) *similar qualified projects as-*
24 *sisted by the Build America Corpora-*
25 *tion through the use of such funds.*

1 (iii) *UTILIZATION OF UPDATED CON-*
 2 *STRUCTION TECHNOLOGY FOR QUALIFIED*
 3 *PROJECTS.—The requirement of this clause*
 4 *is met if the appropriate State agency relat-*
 5 *ing to the qualified project has updated its*
 6 *accepted construction technologies to match*
 7 *a list prescribed by the Secretary of Trans-*
 8 *portation and in effect on the date of the*
 9 *approval of the project as a qualified*
 10 *project.*

11 **PART II—RAILROAD TRACK MODERNIZATION**

12 **SEC. 4631. SHORT TITLE.**

13 *This part may be cited as the “Railroad Track Mod-*
 14 *ernization Act of 2004”.*

15 **SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.**

16 (a) *AUTHORITY.—Chapter 223 of title 49, United*
 17 *States Code, is amended to read as follows:*

18 **“CHAPTER 223—CAPITAL GRANTS FOR**
 19 **RAILROAD TRACK**

 “Sec.
 “22301. *Capital grants for railroad track.*

20 **“§ 22301. Capital grants for railroad track**

21 “(a) *ESTABLISHMENT OF PROGRAM.—*

22 “(1) *ESTABLISHMENT.—The Secretary of Trans-*
 23 *portation shall establish a program of capital grants*
 24 *for the rehabilitation, preservation, or improvement of*

1 *railroad track (including roadbed, bridges, and re-*
2 *lated track structures) of class II and class III rail-*
3 *roads. Such grants shall be for rehabilitating, pre-*
4 *servicing, or improving track used primarily for freight*
5 *transportation to a standard ensuring that the track*
6 *can be operated safely and efficiently, including*
7 *grants for rehabilitating, preserving, or improving*
8 *track to handle 286,000 pound rail cars. Grants may*
9 *be provided under this chapter—*

10 *“(A) directly to the class II or class III*
11 *railroad; or*

12 *“(B) with the concurrence of the class II or*
13 *class III railroad, to a State or local govern-*
14 *ment.*

15 *“(2) STATE COOPERATION.—Class II and class*
16 *III railroad applicants for a grant under this chapter*
17 *are encouraged to utilize the expertise and assistance*
18 *of State transportation agencies in applying for and*
19 *administering such grants. State transportation agen-*
20 *cies are encouraged to provide such expertise and as-*
21 *sistance to such railroads.*

22 *“(3) REGULATIONS.—*

23 *“(A) IN GENERAL.—The Secretary shall*
24 *prescribe regulations to carry out the program*
25 *under this section.*

1 “(B) *CRITERIA.*—*In developing the regula-*
2 *tions, the Secretary shall establish criteria*
3 *that—*

4 “(i) *condition the award of a grant to*
5 *a railroad on reasonable assurances by the*
6 *railroad that the facilities to be rehabili-*
7 *tated and improved will be economically*
8 *and efficiently utilized;*

9 “(ii) *ensure that the award of a grant*
10 *is justified by present and probable future*
11 *demand for rail services by the railroad to*
12 *which the grant is to be awarded;*

13 “(iii) *ensure that consideration is*
14 *given to projects that are part of a State-*
15 *sponsored rail plan; and*

16 “(iv) *ensure that all such grants are*
17 *awarded on a competitive basis.*

18 “(b) *MAXIMUM FEDERAL SHARE.*—*The maximum*
19 *Federal share for carrying out a project under this section*
20 *shall be 80 percent of the project cost. The non-Federal share*
21 *may be provided by any non-Federal source in cash, equip-*
22 *ment, or supplies. Other in-kind contributions may be ap-*
23 *proved by the Secretary on a case by case basis consistent*
24 *with this chapter.*

1 “(c) *PROJECT ELIGIBILITY.*—For a project to be eligi-
2 ble for assistance under this section the track must have
3 been operated or owned by a class II or class III railroad
4 as of the date of the enactment of the Railroad Track Mod-
5 ernization Act of 2004.

6 “(d) *USE OF FUNDS.*—Grants provided under this sec-
7 tion shall be used to implement track capital projects as
8 soon as possible. In no event shall grant funds be contrac-
9 tually obligated for a project later than the end of the third
10 Federal fiscal year following the year in which the grant
11 was awarded. Any funds not so obligated by the end of such
12 fiscal year shall be returned to the Secretary for realloca-
13 tion.

14 “(e) *ADDITIONAL PURPOSE.*—In addition to making
15 grants for projects as provided in subsection (a), the Sec-
16 retary may also make grants to supplement direct loans
17 or loan guarantees made under title V of the Railroad Revi-
18 talization and Regulatory Reform Act of 1976 (45 U.S.C.
19 822(d)), for projects described in the last sentence of section
20 502(d) of such title. Grants made under this subsection may
21 be used, in whole or in part, for paying credit risk pre-
22 miums, lowering rates of interest, or providing for a holi-
23 day on principal payments.

24 “(f) *EMPLOYEE PROTECTION.*—The Secretary shall re-
25 quire as a condition of any grant made under this section

1 *that the recipient railroad provide a fair arrangement at*
2 *least as protective of the interests of employees who are af-*
3 *ected by the project to be funded with the grant as the terms*
4 *imposed under section 11326(a), as in effect on the date*
5 *of the enactment of the Railroad Track Modernization Act*
6 *of 2001.*

7 “(g) *LABOR STANDARDS.—*

8 “(1) *PREVAILING WAGES.—The Secretary shall*
9 *ensure that laborers and mechanics employed by con-*
10 *tractors and subcontractors in construction work fi-*
11 *nanced by a grant made under this section will be*
12 *paid wages not less than those prevailing on similar*
13 *construction in the locality, as determined by the Sec-*
14 *retary of Labor under the Act of March 3, 1931*
15 *(known as the Davis-Bacon Act; 40 U.S.C. 276a et*
16 *seq.). The Secretary shall make a grant under this*
17 *section only after being assured that required labor*
18 *standards will be maintained on the construction*
19 *work.*

20 “(2) *WAGE RATES.—Wage rates in a collective*
21 *bargaining agreement negotiated under the Railway*
22 *Labor Act (45 U.S.C. 151 et seq.) are deemed for pur-*
23 *poses of this subsection to comply with the Act of*
24 *March 3, 1931 (known as the Davis-Bacon Act; 40*
25 *U.S.C. 276a et seq.).”.*

1 (b) *CONFORMING AMENDMENT.*—*The item relating to*
2 *chapter 223 in the table of chapters of subtitle V of title*
3 *49, United States Code, is amended to read as follows:*

 “223. CAPITAL GRANTS FOR RAILROAD TRACK 22301”.

4 **SEC. 4633. REGULATIONS.**

5 (a) *REGULATIONS.*—*The Secretary of Transportation*
6 *shall prescribe under subsection (a)(3) of section 22301 of*
7 *title 49, United States Code (as added by section 4601),*
8 *interim and final regulations for the administration of the*
9 *grant program under such section as follows:*

10 (1) *INTERIM REGULATIONS.*—*The Secretary shall*
11 *prescribe the interim regulations to implement the*
12 *program not later than December 31, 2003.*

13 (2) *FINAL REGULATIONS.*—*The Secretary shall*
14 *prescribe the final regulations not later than October*
15 *1, 2004.*

16 (b) *INAPPLICABILITY OF RULEMAKING PROCEDURE TO*
17 *INTERIM REGULATIONS.*—*Subchapter II of chapter 5 of*
18 *title 5, United States Code, shall not apply to the issuance*
19 *of an interim regulation or to any amendment of such an*
20 *interim regulation.*

21 (c) *CRITERIA.*—*The requirement for the establishment*
22 *of criteria under subparagraph (B) of section 22301(a)(3)*
23 *of title 49, United States Code, applies to the interim regu-*
24 *lations as well as to the final regulations.*

1 **SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.**

2 (a) *REQUIREMENT FOR STUDY.*—*The Secretary of*
3 *Transportation shall conduct a study of the projects carried*
4 *out with grant assistance under section 22301 of title 49,*
5 *United States Code (as added by section 4601), to determine*
6 *the public interest benefits associated with the light density*
7 *railroad networks in the States and their contribution to*
8 *a multimodal transportation system.*

9 (b) *REPORT.*—*Not later than March 31, 2004, the Sec-*
10 *retary shall submit to Congress a report on the results of*
11 *the study under subsection (a). The report shall include any*
12 *recommendations that the Secretary considers appropriate*
13 *regarding the eligibility of light density rail networks for*
14 *Federal infrastructure financing.*

15 **SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.**

16 *There are authorized to be appropriated to the Sec-*
17 *retary of Transportation \$350,000,000 for each of fiscal*
18 *years 2004, 2005, and 2006 for carrying out section 22301*
19 *of title 49, United States Code (as added by section 4601).*

20 **PART III—OTHER RAIL TRANSPORTATION-**

21 **RELATED PROVISIONS**

22 **SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION**
23 **PROJECTS.**

24 (a) *ESTABLISHMENT OF PROGRAM.*—

1 (1) *PROGRAM REQUIREMENTS.*—Chapter 201 of
2 *title 49, United States Code, is amended by adding*
3 *at the end of subchapter II the following:*

4 “§20154. **Capital grants for rail line relocation**
5 **projects**

6 “(a) *ESTABLISHMENT OF PROGRAM.*—The Secretary
7 *of Transportation shall carry out a grant program to pro-*
8 *vide financial assistance for local rail line relocation*
9 *projects.*

10 “(b) *ELIGIBILITY.*—A State is eligible for a grant
11 *under this section for any project for the improvement of*
12 *the route or structure of a rail line passing through a mu-*
13 *nicipality of the State that—*

14 “(1) *is carried out for the purpose of mitigating*
15 *the adverse effects of rail traffic on safety, motor vehi-*
16 *cle traffic flow, or economic development in the mu-*
17 *nicipality;*

18 “(2) *involves a lateral or vertical relocation of*
19 *any portion of the rail line within the municipality*
20 *to avoid a closing of a grade crossing or the construc-*
21 *tion of a road underpass or overpass; and*

22 “(3) *meets the costs-benefits requirement set forth*
23 *in subsection (c).*

24 “(c) *COSTS-BENEFITS REQUIREMENT.*—A grant may
25 *be awarded under this section for a project for the relocation*

1 of a rail line only if the benefits of the project for the period
2 equal to the estimated economic life of the relocated rail line
3 exceed the costs of the project for that period, as determined
4 by the Secretary considering the following factors:

5 “(1) The effects of the rail line and the rail traf-
6 fic on motor vehicle and pedestrian traffic, safety,
7 and area commerce if the rail line were not so relo-
8 cated.

9 “(2) The effects of the rail line, relocated as pro-
10 posed, on motor vehicle and pedestrian traffic, safety,
11 and area commerce.

12 “(3) The effects of the rail line, relocated as pro-
13 posed, on the freight and passenger rail operations on
14 the rail line.

15 “(d) *CONSIDERATIONS FOR APPROVAL OF GRANT AP-*
16 *PLICATIONS.*—In addition to considering the relationship
17 of benefits to costs in determining whether to award a grant
18 to an eligible State under this section, the Secretary shall
19 consider the following factors:

20 “(1) The capability of the State to fund the rail
21 line relocation project without Federal grant funding.

22 “(2) The requirement and limitation relating to
23 allocation of grant funds provided in subsection (e).

24 “(3) Equitable treatment of the various regions
25 of the United States.

1 “(e) *ALLOCATION REQUIREMENTS.*—

2 “(1) *GRANTS NOT GREATER THAN*
3 *\$20,000,000.—At least 50 percent of all grant funds*
4 *awarded under this section out of funds appropriated*
5 *for a fiscal year shall be provided as grant awards of*
6 *not more than \$20,000,000 each.*

7 “(2) *LIMITATION PER PROJECT.*—*Not more than*
8 *25 percent of the total amount available for carrying*
9 *out this section for a fiscal year may be provided for*
10 *any 1 project in that fiscal year.*

11 “(f) *FEDERAL SHARE.*—*The total amount of a grant*
12 *awarded under this section for a rail line relocation project*
13 *shall be 90 percent of the shared costs of the project, as deter-*
14 *mined under subsection (g)(4).*

15 “(g) *STATE SHARE.*—

16 “(1) *PERCENTAGE.*—*A State shall pay 10 per-*
17 *cent of the shared costs of a project that is funded in*
18 *part by a grant awarded under this section.*

19 “(2) *FORMS OF CONTRIBUTIONS.*—*The share re-*
20 *quired by paragraph (1) may be paid in cash or in*
21 *kind.*

22 “(3) *IN-KIND CONTRIBUTIONS.*—*The in-kind con-*
23 *tributions that are permitted to be counted under*
24 *paragraph (2) for a project for a State are as follows:*

1 “(A) *A contribution of real property or tan-*
2 *gible personal property (whether provided by the*
3 *State or a person for the State).*

4 “(B) *A contribution of the services of em-*
5 *ployees of the State, calculated on the basis of*
6 *costs incurred by the State for the pay and bene-*
7 *fits of the employees, but excluding overhead and*
8 *general administrative costs.*

9 “(C) *A payment of any costs that were in-*
10 *curring for the project before the filing of an ap-*
11 *plication for a grant for the project under this*
12 *section, and any in-kind contributions that were*
13 *made for the project before the filing of the appli-*
14 *cation, if and to the extent that the costs were in-*
15 *curring or in-kind contributions were made, as*
16 *the case may be, to comply with a provision of*
17 *a statute required to be satisfied in order to*
18 *carry out the project.*

19 “(4) *COSTS NOT SHARED.—*

20 “(A) *IN GENERAL.—For the purposes of*
21 *subsection (f) and this subsection, the shared*
22 *costs of a project in a municipality do not in-*
23 *clude any cost that is defrayed with any funds*
24 *or in-kind contribution that a source other than*
25 *the municipality makes available for the use of*

1 *the municipality without imposing at least 1 of*
2 *the following conditions:*

3 “(i) *The condition that the municipi-*
4 *pality use the funds or contribution only for*
5 *the project.*

6 “(ii) *The condition that the avail-*
7 *ability of the funds or contribution to the*
8 *municipality is contingent on the execution*
9 *of the project.*

10 “(B) *DETERMINATIONS OF THE SEC-*
11 *RETARY.—The Secretary shall determine the*
12 *amount of the costs, if any, that are not shared*
13 *costs under this paragraph and the total amount*
14 *of the shared costs. A determination of the Sec-*
15 *retary shall be final.*

16 “(h) *MULTISTATE AGREEMENTS TO COMBINE*
17 *AMOUNTS.—Two or more States (not including polit-*
18 *ical subdivisions of States) may, pursuant to an*
19 *agreement entered into by the States, combine any*
20 *part of the amounts provided through grants for a*
21 *project under this section if—*

22 “(1) *the project will benefit each of the*
23 *States entering into the agreement; and*

24 “(2) *the agreement is not a violation of a*
25 *law of any such State.*

1 “(i) *REGULATIONS.*—*The Secretary shall prescribe*
2 *regulations for carrying out this section.*”

3 “(j) *STATE DEFINED.*—*In this section, the term ‘State’*
4 *includes, except as otherwise specifically provided, a polit-*
5 *ical subdivision of a State.*”

6 “(k) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
7 *are authorized to be appropriated to the Secretary for use*
8 *in carrying out this section \$350,000,000 for each of the*
9 *fiscal years 2004 through 2008.”.*

10 (2) *CLERICAL AMENDMENT.*—*The chapter anal-*
11 *ysis for such chapter is amended by adding at the end*
12 *the following:*

“20154. *Capital grants for rail line relocation projects.*”.

13 (b) *REGULATIONS.*—

14 (1) *INTERIM REGULATIONS.*—*Not later than Oc-*
15 *tober 1, 2003, the Secretary of Transportation shall*
16 *issue temporary regulations to implement the grant*
17 *program under section 20154 of title 49, United*
18 *States Code, as added by subsection (a). Subchapter*
19 *II of chapter 5 of title 5, United States Code, shall*
20 *not apply to the issuance of a temporary regulation*
21 *under this subsection or of any amendment of such a*
22 *temporary regulation.*

23 (2) *FINAL REGULATIONS.*—*Not later than April*
24 *1, 2004, the Secretary shall issue final regulations*
25 *implementing the program.*

1 **SEC. 4662. USE OF CONGESTION MITIGATION AND AIR**
2 **QUALITY IMPROVEMENT FUNDS FOR BOSTON**
3 **TO PORTLAND PASSENGER RAIL SERVICE.**

4 *Notwithstanding any other provision of law, funds au-*
5 *thorized to be appropriated under section 1101(5) that are*
6 *made available to the State of Maine may be used to sup-*
7 *port, through December 15, 2006, the operation of passenger*
8 *rail service between Boston, Massachusetts, and Portland,*
9 *Maine.*

10 **TITLE V—HIGHWAY REAUTHOR-**
11 **IZATION AND EXCISE TAX**
12 **SIMPLIFICATION**

13 **SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.**

14 *(a) SHORT TITLE.—This title may be cited as the*
15 *“Highway Reauthorization and Excise Tax Simplification*
16 *Act of 2004”.*

17 *(b) AMENDMENT OF 1986 CODE.—Except as otherwise*
18 *expressly provided, whenever in this title an amendment*
19 *or repeal is expressed in terms of an amendment to, or re-*
20 *peal of, a section or other provision, the reference shall be*
21 *considered to be made to a section or other provision of the*
22 *Internal Revenue Code of 1986.*

1 **Subtitle A—Trust Fund**
2 **Reauthorization**

3 **SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND**
4 **AQUATIC RESOURCES TRUST FUND EXPENDI-**
5 **TURE AUTHORITY AND RELATED TAXES.**

6 (a) *HIGHWAY TRUST FUND EXPENDITURE AUTHOR-*
7 *ITY.*—

8 (1) *HIGHWAY ACCOUNT.*—*Paragraph (1) of sec-*
9 *tion 9503(c) (relating to transfers from Highway*
10 *Trust Fund for certain repayments and credits) is*
11 *amended—*

12 (A) *in the matter before subparagraph (A),*
13 *by striking “March 1, 2004” and inserting “Oc-*
14 *tober 1, 2009”,*

15 (B) *by striking “or” at the end of subpara-*
16 *graph (E),*

17 (C) *by striking the period at the end of sub-*
18 *paragraph (F) and inserting “, or”,*

19 (D) *by inserting after subparagraph (F),*
20 *the following new subparagraph:*

21 *“(G) authorized to be paid out of the High-*
22 *way Trust Fund under the Safe, Accountable,*
23 *Flexible, and Efficient Transportation Equity*
24 *Act of 2004.”, and*

1 (E) in the matter after subparagraph (G),
2 as added by subparagraph (D), by striking
3 “Surface Transportation Extension Act of 2003”
4 and inserting “Safe, Accountable, Flexible, and
5 Efficient Transportation Equity Act of 2004”.

6 (2) MASS TRANSIT ACCOUNT.—Paragraph (3) of
7 section 9503(e) (relating to establishment of Mass
8 Transit Account) is amended—

9 (A) in the matter before subparagraph (A),
10 by striking “March 1, 2004” and inserting “Oc-
11 tober 1, 2009”,

12 (B) by striking “or” at the end of subpara-
13 graph (C),

14 (C) by striking the period at the end of sub-
15 paragraph (D) and inserting “, or”,

16 (D) by inserting after subparagraph (D),
17 the following new subparagraph:

18 “(E) the Safe, Accountable, Flexible, and
19 Efficient Transportation Equity Act of 2004,”
20 and

21 (E) in the matter after subparagraph (E),
22 as added by subparagraph (D), by striking
23 “Surface Transportation Extension Act of 2003”
24 and inserting “Safe, Accountable, Flexible, and
25 Efficient Transportation Equity Act of 2004”.

1 (3) *EXCEPTION TO LIMITATION ON TRANS-*
2 *FERS.—Subparagraph (B) of section 9503(b)(5) (re-*
3 *lating to limitation on transfers to Highway Trust*
4 *Fund) is amended by striking “March 1, 2004” and*
5 *inserting “October 1, 2009”.*

6 (b) *AQUATIC RESOURCES TRUST FUND EXPENDITURE*
7 *AUTHORITY.—*

8 (1) *SPORT FISH RESTORATION ACCOUNT.—Para-*
9 *graph (2) of section 9504(b) (relating to Sport Fish*
10 *Restoration Account) is amended by striking “Surface*
11 *Transportation Extension Act of 2003” each place it*
12 *appears and inserting “Safe, Accountable, Flexible,*
13 *and Efficient Transportation Equity Act of 2004”.*

14 (2) *BOAT SAFETY ACCOUNT.—Section 9504(c)*
15 *(relating to expenditures from Boat Safety Account)*
16 *is amended—*

17 (A) *by striking “March 1, 2004” and insert-*
18 *ing “October 1, 2009”, and*

19 (B) *by striking “Surface Transportation*
20 *Extension Act of 2003” and inserting “Safe, Ac-*
21 *countable, Flexible, and Efficient Transportation*
22 *Equity Act of 2004”.*

23 (3) *EXCEPTION TO LIMITATION ON TRANS-*
24 *FERS.—Paragraph (2) of section 9504(d) (relating to*
25 *limitation on transfers to Aquatic Resources Trust*

1 *Fund) is amended by striking “March 1, 2004” and*
2 *inserting “October 1, 2009”.*

3 (4) *TECHNICAL CORRECTION.—The last sentence*
4 *of paragraph (2) of section 9504(b) is amended by*
5 *striking “subparagraph (B)”, and inserting “sub-*
6 *paragraph (C)”.*

7 (c) *EXTENSION OF TAXES.—*

8 (1) *IN GENERAL.—The following provisions are*
9 *each amended by striking “2005” each place it ap-*
10 *pears and inserting “2009”:*

11 (A) *Section 4041(a)(1)(C)(iii)(I) (relating*
12 *to rate of tax on certain buses).*

13 (B) *Section 4041(a)(2)(B) (relating to rate*
14 *of tax on special motor fuels).*

15 (C) *Section 4041(m)(1)(A) (relating to cer-*
16 *tain alcohol fuels produced from natural gas).*

17 (D) *Section 4051(c) (relating to termi-*
18 *nation of tax on heavy trucks and trailers).*

19 (E) *Section 4071(d) (relating to termi-*
20 *nation of tax on tires).*

21 (F) *Section 4081(d)(1) (relating to termi-*
22 *nation of tax on gasoline, diesel fuel, and ker-*
23 *osene).*

24 (G) *Section 4481(e) (relating to period tax*
25 *in effect).*

1 (H) Section 4482(c)(4) (relating to taxable
2 period).

3 (I) Section 4482(d) (relating to special rule
4 for taxable period in which termination date oc-
5 curs).

6 (2) *FLOOR STOCKS REFUNDS.*—Section
7 6412(a)(1) (relating to floor stocks refunds) is amend-
8 ed—

9 (A) by striking “2005” each place it ap-
10 pears and inserting “2009”, and

11 (B) by striking “2006” each place it ap-
12 pears and inserting “2010”.

13 (d) *EXTENSION OF CERTAIN EXEMPTIONS.*—The fol-
14 lowing provisions are each amended by striking “2005” and
15 inserting “2009”:

16 (1) Section 4221(a) (relating to certain tax-free
17 sales).

18 (2) Section 4483(g) (relating to termination of
19 exemptions for highway use tax).

20 (e) *EXTENSION OF DEPOSITS INTO, AND CERTAIN*
21 *TRANSFERS FROM, TRUST FUND.*—

22 (1) *IN GENERAL.*—Subsections (b), (c)(2), (c)(3),
23 (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to
24 the Highway Trust Fund) are amended—

1 (A) by striking “2005” each place it ap-
2 pears and inserting “2009”, and

3 (B) by striking “2006” each place it ap-
4 pears and inserting “2010”.

5 (2) *CONFORMING AMENDMENTS TO LAND AND*
6 *WATER CONSERVATION FUND.*—Section 201(b) of the
7 *Land and Water Conservation Fund Act of 1965 (16*
8 *U.S.C. 460l–11(b)) is amended—*

9 (A) by striking “2003” and inserting
10 “2007”, and

11 (B) by striking “2004” each place it ap-
12 pears and inserting “2008”.

13 (f) *EXTENSION OF TAX BENEFITS FOR QUALIFIED*
14 *METHANOL AND ETHANOL FUEL PRODUCED FROM*
15 *COAL.*—Section 4041(b)(2) (relating to qualified methanol
16 and ethanol fuel) is amended—

17 (1) by striking “2007” in subparagraph (C)(ii)
18 and inserting “2010”, and

19 (2) by striking “October 1, 2007” in subpara-
20 graph (D) and inserting “January 1, 2011”.

21 (g) *PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR*
22 *RAIL PROJECTS.*—Section 9503(c) (relating to transfers
23 from Highway Trust Fund for certain repayments and
24 credits) is amended by adding at the end the following new
25 paragraph:

1 “(6) *PROHIBITION ON USE OF HIGHWAY AC-*
2 *COUNT FOR CERTAIN RAIL PROJECTS.*—*With respect*
3 *to rail projects beginning after the date of the enact-*
4 *ment of this paragraph, no amount shall be available*
5 *from the Highway Account (as defined in subsection*
6 *(e)(5)(B)) for any rail project, except for any rail*
7 *project involving publicly owned rail facilities or any*
8 *rail project yielding a public benefit.”.*

9 *(h) HIGHWAY TRUST FUND EXPENDITURES FOR*
10 *HIGHWAY USE TAX EVASION PROJECTS.*—*Section 9503(c),*
11 *as amended by subsection (g), is amended to add at the*
12 *end the following new paragraph:*

13 “(7) *HIGHWAY USE TAX EVASION PROJECTS.*—
14 *From amounts available in the Highway Trust Fund,*
15 *there is authorized to be expended—*

16 “(A) *for each fiscal year after 2003 to the*
17 *Internal Revenue Service—*

18 “(i) *\$30,000,000 for enforcement of fuel*
19 *tax compliance, including the per-certifi-*
20 *cation of tax-exempt users,*

21 “(ii) *\$10,000,000 for Xstars, and*

22 “(iii) *\$10,000,000 for xfirs, and*

23 “(B) *for each fiscal year after 2003 to the*
24 *Federal Highway Administration, \$50,000,000*

1 to be allocated \$1,000,000 to each State to com-
2 bat fuel tax evasion on the State level.”.

3 (i) *EFFECTIVE DATE.*—The amendments made by and
4 provisions of this section shall take effect on the date of the
5 enactment of this Act.

6 **SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE**
7 **HIGHWAY TRUST FUND.**

8 (a) *IN GENERAL.*—Section 9503(c) (relating to trans-
9 fers from Highway Trust Fund for certain repayments and
10 credits), as amended by section 5001 of this Act, is amended
11 by striking paragraph (2) and redesignating paragraphs
12 (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5),
13 and (6), respectively.

14 (b) *INTEREST ON UNEXPENDED BALANCES CREDITED*
15 *TO TRUST FUND.*—Section 9503 (relating to the Highway
16 Trust Fund) is amended by striking subsection (f).

17 (c) *CONFORMING AMENDMENTS.*—

18 (1) Section 9503(b)(4)(D) is amended by strik-
19 ing “paragraph (4)(D) or (5)(B)” and inserting
20 “paragraph (3)(D) or (4)(B)”.

21 (2) Paragraph (2) of section 9503(c) (as redesi-
22 gnated by subsection (a)) is amended by adding at the
23 end the following new sentence: “The amounts pay-
24 able from the Highway Trust Fund under this para-
25 graph shall be determined by taking into account only

1 *the portion of the taxes which are deposited into the*
2 *Highway Trust Fund.”.*

3 (3) *Section 9504(a)(2) is amended by striking*
4 *“section 9503(c)(4), section 9503(c)(5)” and inserting*
5 *“section 9503(c)(3), section 9503(c)(4)”.*

6 (4) *Paragraph (2) of section 9504(b), as amend-*
7 *ed by section 5001 of this Act, is amended by striking*
8 *“section 9503(c)(5)” and inserting “section*
9 *9503(c)(4)”.*

10 (5) *Section 9504(e) is amended by striking “sec-*
11 *tion 9503(c)(4)” and inserting “section 9503(c)(3)”.*

12 (d) *EFFECTIVE DATES.—*

13 (1) *IN GENERAL.—Except as provided in para-*
14 *graph (2), the amendments made by this section shall*
15 *apply to amounts paid for which no transfer from the*
16 *Highway Trust Fund has been made before April 1,*
17 *2004.*

18 (2) *INTEREST CREDITED.—The amendment*
19 *made by subsection (b) shall take effect on the date of*
20 *the enactment of this Act.*

21 **SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPOR-**
22 **TIONMENTS.**

23 (a) *IN GENERAL.—Section 9503(d) (relating to adjust-*
24 *ments for apportionments) is amended—*

1 (1) by striking “24-month” in paragraph (1)(B)
2 and inserting “48-month”, and

3 (2) by striking “2 YEARS” in the heading for
4 paragraph (3) and inserting “4 YEARS”.

5 (b) *MEASUREMENT OF NET HIGHWAY RECEIPTS.*—
6 Section 9503(d) is amended by redesignating paragraph (6)
7 as paragraph (7) and by inserting after paragraph (5) the
8 following new paragraph:

9 “(6) *MEASUREMENT OF NET HIGHWAY RE-*
10 *CEIPTS.*—For purposes of making any estimate under
11 paragraph (1) of net highway receipts for periods
12 ending after the date specified in subsection (b)(1),
13 the Secretary shall treat—

14 “(A) each expiring provision of subsection
15 (b) which is related to appropriations or trans-
16 fers to the Highway Trust Fund to have been ex-
17 tended through the end of the 48-month period
18 referred to in paragraph (1)(B), and

19 “(B) with respect to each tax imposed under
20 the sections referred to in subsection (b)(1), the
21 rate of such tax during the 48-month period re-
22 ferred to in paragraph (1)(B) to be the same as
23 the rate of such tax as in effect on the date of
24 such estimate.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 ***Subtitle B—Volumetric Ethanol***
 5 ***Excise Tax Credit***

6 ***SEC. 5101. SHORT TITLE.***

7 *This subtitle may be cited as the “Volumetric Ethanol*
 8 *Excise Tax Credit (VEETC) Act of 2004”.*

9 ***SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT***
 10 ***AND EXTENSION OF ALCOHOL FUELS INCOME***
 11 ***TAX CREDIT.***

12 (a) *IN GENERAL.*—*Subchapter B of chapter 65 (relat-*
 13 *ing to rules of special application) is amended by inserting*
 14 *after section 6425 the following new section:*

15 ***“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL***
 16 ***MIXTURES.***

17 ***“(a) ALLOWANCE OF CREDITS.***—*There shall be allowed*
 18 *as a credit against the tax imposed by section 4081 an*
 19 *amount equal to the sum of—*

20 ***“(1) the alcohol fuel mixture credit, plus***

21 ***“(2) the biodiesel mixture credit.***

22 ***“(b) ALCOHOL FUEL MIXTURE CREDIT.***—

23 ***“(1) IN GENERAL.***—*For purposes of this section,*
 24 *the alcohol fuel mixture credit is the product of the*
 25 *applicable amount and the number of gallons of alco-*

1 *hol used by the taxpayer in producing any alcohol*
2 *fuel mixture for sale or use in a trade or business of*
3 *the taxpayer.*

4 “(2) *APPLICABLE AMOUNT.*—*For purposes of this*
5 *subsection—*

6 “(A) *IN GENERAL.*—*Except as provided in*
7 *subparagraph (B), the applicable amount is 52*
8 *cents (51 cents in the case of any sale or use*
9 *after 2004).*

10 “(B) *MIXTURES NOT CONTAINING ETH-*
11 *ANOL.*—*In the case of an alcohol fuel mixture in*
12 *which none of the alcohol consists of ethanol, the*
13 *applicable amount is 60 cents.*

14 “(3) *ALCOHOL FUEL MIXTURE.*—*For purposes of*
15 *this subsection, the term ‘alcohol fuel mixture’ means*
16 *a mixture of alcohol and a taxable fuel which—*

17 “(A) *is sold by the taxpayer producing such*
18 *mixture to any person for use as a fuel,*

19 “(B) *is used as a fuel by the taxpayer pro-*
20 *ducing such mixture, or*

21 “(C) *is removed from the refinery by a per-*
22 *son producing such mixture.*

23 “(4) *OTHER DEFINITIONS.*—*For purposes of this*
24 *subsection—*

1 “(A) *ALCOHOL*.—The term ‘alcohol’ includes
2 methanol and ethanol but does not include—

3 “(i) alcohol produced from petroleum,
4 natural gas, or coal (including peat), or

5 “(ii) alcohol with a proof of less than
6 190 (determined without regard to any
7 added denaturants).

8 Such term also includes an alcohol gallon equiv-
9 alent of ethyl tertiary butyl ether or other ethers
10 produced from such alcohol.

11 “(B) *TAXABLE FUEL*.—The term ‘taxable
12 fuel’ has the meaning given such term by section
13 4083(a)(1).

14 “(5) *TERMINATION*.—This subsection shall not
15 apply to any sale, use, or removal for any period
16 after December 31, 2010.

17 “(c) *BIODIESEL MIXTURE CREDIT*.—

18 “(1) *IN GENERAL*.—For purposes of this section,
19 the biodiesel mixture credit is the product of the ap-
20 plicable amount and the number of gallons of bio-
21 diesel used by the taxpayer in producing any bio-
22 diesel mixture for sale or use in a trade or business
23 of the taxpayer.

24 “(2) *APPLICABLE AMOUNT*.—For purposes of this
25 subsection—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the applicable amount is 50*
3 *cents.*

4 “(B) *AMOUNT FOR AGRI-BIODIESEL.*—*In*
5 *the case of any biodiesel which is agri-biodiesel,*
6 *the applicable amount is \$1.00.*

7 “(3) *BIODIESEL MIXTURE.*—*For purposes of this*
8 *section, the term ‘biodiesel mixture’ means a mixture*
9 *of biodiesel and diesel fuel (as defined in section*
10 *4083(a)(3)), determined without regard to any use of*
11 *kerosene, which—*

12 “(A) *is sold by the taxpayer producing such*
13 *mixture to any person for use as a fuel,*

14 “(B) *is used as a fuel by the taxpayer pro-*
15 *ducing such mixture, or*

16 “(C) *is removed from the refinery by a per-*
17 *son producing such mixture.*

18 “(4) *CERTIFICATION FOR BIODIESEL.*—*No credit*
19 *shall be allowed under this section unless the taxpayer*
20 *obtains a certification (in such form and manner as*
21 *prescribed by the Secretary) from the producer of the*
22 *biodiesel which identifies the product produced and*
23 *the percentage of biodiesel and agri-biodiesel in the*
24 *product.*

1 “(5) *OTHER DEFINITIONS.*—Any term used in
2 this subsection which is also used in section 40A shall
3 have the meaning given such term by section 40A.

4 “(6) *TERMINATION.*—This subsection shall not
5 apply to any sale, use, or removal for any period
6 after December 31, 2006.

7 “(d) *MIXTURE NOT USED AS A FUEL, ETC.*—

8 “(1) *IMPOSITION OF TAX.*—If—

9 “(A) any credit was determined under this
10 section with respect to alcohol or biodiesel used
11 in the production of any alcohol fuel mixture or
12 biodiesel mixture, respectively, and

13 “(B) any person—

14 “(i) separates the alcohol or biodiesel
15 from the mixture, or

16 “(ii) without separation, uses the mix-
17 ture other than as a fuel,

18 then there is hereby imposed on such person a
19 tax equal to the product of the applicable
20 amount and the number of gallons of such alco-
21 hol or biodiesel.

22 “(2) *APPLICABLE LAWS.*—All provisions of law,
23 including penalties, shall, insofar as applicable and
24 not inconsistent with this section, apply in respect of

1 any tax imposed under paragraph (1) as if such tax
2 were imposed by section 4081 and not by this section.

3 “(e) *COORDINATION WITH EXEMPTION FROM EXCISE*
4 *TAX.*—Rules similar to the rules under section 40(c) shall
5 *apply for purposes of this section.*”

6 (b) *REGISTRATION REQUIREMENT.*—Section
7 4101(a)(1) (relating to registration), as amended by sec-
8 tions 5211 and 5242 of this Act, is amended by inserting
9 “and every person producing or importing biodiesel (as de-
10 fined in section 40A(d)(1)) or alcohol (as defined in section
11 6426(b)(4)(A))” after “4081”.

12 (c) *ADDITIONAL AMENDMENTS.*—

13 (1) Section 40(c) is amended by striking “sub-
14 section (b)(2), (k), or (m) of section 4041, section
15 4081(c), or section 4091(c)” and inserting “section
16 4041(b)(2), section 6426, or section 6427(e)”.

17 (2) Paragraph (4) of section 40(d) is amended to
18 read as follows:

19 “(4) *VOLUME OF ALCOHOL.*—For purposes of de-
20 termining under subsection (a) the number of gallons
21 of alcohol with respect to which a credit is allowable
22 under subsection (a), the volume of alcohol shall in-
23 clude the volume of any denaturant (including gaso-
24 line) which is added under any formulas approved by
25 the Secretary to the extent that such denaturants do

1 *not exceed 5 percent of the volume of such alcohol (in-*
2 *cluding denaturants).”.*

3 *(3) Section 40(e)(1) is amended—*

4 *(A) by striking “2007” in subparagraph*

5 *(A) and inserting “2010”, and*

6 *(B) by striking “2008” in subparagraph*

7 *(B) and inserting “2011”.*

8 *(4) Section 40(h) is amended—*

9 *(A) by striking “2007” in paragraph (1)*

10 *and inserting “2010”, and*

11 *(B) by striking “, 2006, or 2007” in the*

12 *table contained in paragraph (2) and inserting*

13 *“through 2010”.*

14 *(5) Section 4041(b)(2)(B) is amended by striking*

15 *“a substance other than petroleum or natural gas”*

16 *and inserting “coal (including peat)”.*

17 *(6) Section 4041 is amended by striking sub-*

18 *section (k).*

19 *(7) Section 4081 is amended by striking sub-*

20 *section (c).*

21 *(8) Paragraph (2) of section 4083(a) is amended*

22 *to read as follows:*

23 *“(2) GASOLINE.—The term ‘gasoline’—*

24 *“(A) includes any gasoline blend, other than*

25 *qualified methanol or ethanol fuel (as defined in*

1 *section 4041(b)(2)(B)), partially exempt meth-*
2 *anol or ethanol fuel (as defined in section*
3 *4041(m)(2)), or a denatured alcohol, and*

4 *“(B) includes, to the extent prescribed in*
5 *regulations—*

6 *“(i) any gasoline blend stock, and*

7 *“(ii) any product commonly used as*
8 *an additive in gasoline (other than alcohol).*

9 *For purposes of subparagraph (B)(i), the term ‘gaso-*
10 *line blend stock’ means any petroleum product compo-*
11 *nent of gasoline.”.*

12 *(9) Section 6427 is amended by inserting after*
13 *subsection (d) the following new subsection:*

14 *“(e) ALCOHOL OR BIODIESEL USED TO PRODUCE AL-*
15 *COHOL FUEL AND BIODIESEL MIXTURES OR USED AS*
16 *FUELS.—Except as provided in subsection (k)—*

17 *“(1) USED TO PRODUCE A MIXTURE.—If any*
18 *person produces a mixture described in section 6426*
19 *in such person’s trade or business, the Secretary shall*
20 *pay (without interest) to such person an amount*
21 *equal to the alcohol fuel mixture credit or the biodiesel*
22 *mixture credit with respect to such mixture.*

23 *“(2) USED AS FUEL.—If alcohol (as defined in*
24 *section 40(d)(1)) or biodiesel (as defined in section*
25 *40A(d)(1)) or agri-biodiesel (as defined in section*

1 40A(d)(2)) which is not in a mixture described in sec-
2 tion 6426—

3 “(A) is used by any person as a fuel in a
4 trade or business, or

5 “(B) is sold by any person at retail to an-
6 other person and placed in the fuel tank of such
7 person’s vehicle,

8 the Secretary shall pay (without interest) to such per-
9 son an amount equal to the alcohol credit (as deter-
10 mined under section 40(b)(2)) or the biodiesel credit
11 (as determined under section 40A(b)(2)) with respect
12 to such fuel.

13 “(3) COORDINATION WITH OTHER REPAYMENT
14 PROVISIONS.—No amount shall be payable under
15 paragraph (1) with respect to any mixture with re-
16 spect to which an amount is allowed as a credit
17 under section 6426.

18 “(4) TERMINATION.—This subsection shall not
19 apply with respect to—

20 “(A) any alcohol fuel mixture (as defined in
21 section 6426(b)(3)) or alcohol (as so defined) sold
22 or used after December 31, 2010, and

23 “(B) any biodiesel mixture (as defined in
24 section 6426(c)(3)) or biodiesel (as so defined) or

1 *agri-biodiesel (as so defined) sold or used after*
2 *December 31, 2006.”.*

3 *(10) Section 6427(i)(3) is amended—*

4 *(A) by striking “subsection (f)” both places*
5 *it appears in subparagraph (A) and inserting*
6 *“subsection (e)(1)”,*

7 *(B) by striking “gasoline, diesel fuel, or ker-*
8 *osene used to produce a qualified alcohol mixture*
9 *(as defined in section 4081(c)(3))” in subpara-*
10 *graph (A) and inserting “a mixture described in*
11 *section 6426”,*

12 *(C) by adding at the end of subparagraph*
13 *(A) the following new flush sentence:*

14 *“In the case of an electronic claim, this subpara-*
15 *graph shall be applied without regard to clause*
16 *(i).”,*

17 *(D) by striking “subsection (f)(1)” in sub-*
18 *paragraph (B) and inserting “subsection (e)(1)”,*

19 *(E) by striking “20 days of the date of the*
20 *filing of such claim” in subparagraph (B) and*
21 *inserting “45 days of the date of the filing of*
22 *such claim (20 days in the case of an electronic*
23 *claim)”*, and

1 (F) by striking “ALCOHOL MIXTURE” in the
 2 heading and inserting “ALCOHOL FUEL AND BIO-
 3 DIESEL MIXTURE”.

4 (11) Section 9503(b)(1) is amended by adding at
 5 the end the following new flush sentence:

6 “For purposes of this paragraph, taxes received under
 7 sections 4041 and 4081 shall be determined without
 8 reduction for credits under section 6426.”.

9 (12) Section 9503(b)(4), as amended by section
 10 5101 of this Act, is amended—

11 (A) by adding “or” at the end of subpara-
 12 graph (C),

13 (B) by striking the comma at the end of
 14 subparagraph (D)(iii) and inserting a period,
 15 and

16 (C) by striking subparagraphs (E) and (F).

17 (13) The table of sections for subchapter B of
 18 chapter 65 is amended by inserting after the item re-
 19 lating to section 6425 the following new item:

“Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.”.

20 (14) *TARIFF SCHEDULE*.—Headings 9901.00.50
 21 and 9901.00.52 of the Harmonized Tariff Schedule of
 22 the United States (19 U.S.C. 3007) are each amended
 23 in the effective period column by striking “10/1/2007”
 24 each place it appears and inserting “1/1/2011”.

25 (d) *EFFECTIVE DATES*.—

1 (1) *IN GENERAL.*—*Except as otherwise provided*
2 *in this subsection, the amendments made by this sec-*
3 *tion shall apply to fuel sold or used after September*
4 *30, 2004.*

5 (2) *REGISTRATION REQUIREMENT.*—*The amend-*
6 *ment made by subsection (b) shall take effect on April*
7 *1, 2005.*

8 (3) *EXTENSION OF ALCOHOL FUELS CREDIT.*—
9 *The amendments made by paragraphs (3), (4), and*
10 *(14) of subsection (c) shall take effect on the date of*
11 *the enactment of this Act.*

12 (4) *REPEAL OF GENERAL FUND RETENTION OF*
13 *CERTAIN ALCOHOL FUELS TAXES.*—*The amendments*
14 *made by subsection (c)(12) shall apply to fuel sold or*
15 *used after September 30, 2003.*

16 (e) *FORMAT FOR FILING.*—*The Secretary of the Treas-*
17 *ury shall describe the electronic format for filing claims de-*
18 *scribed in section 6427(i)(3)(B) of the Internal Revenue*
19 *Code of 1986 (as amended by subsection (c)(10)(C)) not*
20 *later than September 30, 2004.*

21 **SEC. 5103. BIODIESEL INCOME TAX CREDIT.**

22 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
23 *A of chapter 1 (relating to business related credits) is*
24 *amended by inserting after section 40 the following new sec-*
25 *tion:*

1 **“SEC. 40A. BIODIESEL USED AS FUEL.**

2 “(a) *GENERAL RULE.*—For purposes of section 38, the
3 *biodiesel fuels credit determined under this section for the*
4 *taxable year is an amount equal to the sum of—*

5 “(1) *the biodiesel mixture credit, plus*

6 “(2) *the biodiesel credit.*

7 “(b) *DEFINITION OF BIODIESEL MIXTURE CREDIT*
8 *AND BIODIESEL CREDIT.*—For purposes of this section—

9 “(1) *BIODIESEL MIXTURE CREDIT.*—

10 “(A) *IN GENERAL.*—The *biodiesel mixture*
11 *credit of any taxpayer for any taxable year is 50*
12 *cents for each gallon of biodiesel used by the tax-*
13 *payer in the production of a qualified biodiesel*
14 *mixture.*

15 “(B) *QUALIFIED BIODIESEL MIXTURE.*—The
16 *term ‘qualified biodiesel mixture’ means a mix-*
17 *ture of biodiesel and diesel fuel (as defined in*
18 *section 4083(a)(3)), determined without regard*
19 *to any use of kerosene, which—*

20 “(i) *is sold by the taxpayer producing*
21 *such mixture to any person for use as a*
22 *fuel, or*

23 “(ii) *is used as a fuel by the taxpayer*
24 *producing such mixture.*

25 “(C) *SALE OR USE MUST BE IN TRADE OR*
26 *BUSINESS, ETC.*—*Biodiesel used in the produc-*

1 *tion of a qualified biodiesel mixture shall be*
2 *taken into account—*

3 *“(i) only if the sale or use described in*
4 *subparagraph (B) is in a trade or business*
5 *of the taxpayer, and*

6 *“(ii) for the taxable year in which such*
7 *sale or use occurs.*

8 *“(D) CASUAL OFF-FARM PRODUCTION NOT*
9 *ELIGIBLE.—No credit shall be allowed under this*
10 *section with respect to any casual off-farm pro-*
11 *duction of a qualified biodiesel mixture.*

12 *“(2) BIODIESEL CREDIT.—*

13 *“(A) IN GENERAL.—The biodiesel credit of*
14 *any taxpayer for any taxable year is 50 cents for*
15 *each gallon of biodiesel which is not in a mixture*
16 *with diesel fuel and which during the taxable*
17 *year—*

18 *“(i) is used by the taxpayer as a fuel*
19 *in a trade or business, or*

20 *“(ii) is sold by the taxpayer at retail*
21 *to a person and placed in the fuel tank of*
22 *such person’s vehicle.*

23 *“(B) USER CREDIT NOT TO APPLY TO BIO-*
24 *DIESEL SOLD AT RETAIL.—No credit shall be al-*
25 *lowed under subparagraph (A)(i) with respect to*

1 *any biodiesel which was sold in a retail sale de-*
2 *scribed in subparagraph (A)(i).*

3 “(3) *CREDIT FOR AGRI-BIODIESEL.—In the case*
4 *of any biodiesel which is agri-biodiesel, paragraphs*
5 *(1)(A) and (2)(A) shall be applied by substituting*
6 *‘\$1.00’ for ‘50 cents’.*

7 “(4) *CERTIFICATION FOR BIODIESEL.—No credit*
8 *shall be allowed under this section unless the taxpayer*
9 *obtains a certification (in such form and manner as*
10 *prescribed by the Secretary) from the producer or im-*
11 *porter of the biodiesel which identifies the product*
12 *produced and the percentage of biodiesel and agri-bio-*
13 *diesel in the product.*

14 “(c) *COORDINATION WITH CREDIT AGAINST EXCISE*
15 *TAX.—The amount of the credit determined under this sec-*
16 *tion with respect to any biodiesel shall be properly reduced*
17 *to take into account any benefit provided with respect to*
18 *such biodiesel solely by reason of the application of section*
19 *6426 or 6427(e).*

20 “(d) *DEFINITIONS AND SPECIAL RULES.—For pur-*
21 *poses of this section—*

22 “(1) *BIODIESEL.—The term ‘biodiesel’ means the*
23 *monoalkyl esters of long chain fatty acids derived*
24 *from plant or animal matter which meet—*

1 “(A) the registration requirements for fuels
2 and fuel additives established by the Environ-
3 mental Protection Agency under section 211 of
4 the Clean Air Act (42 U.S.C. 7545), and

5 “(B) the requirements of the American Soci-
6 ety of Testing and Materials D6751.

7 “(2) *AGRI-BIODIESEL*.—The term ‘agri-biodiesel’
8 means biodiesel derived solely from virgin oils, in-
9 cluding esters derived from virgin vegetable oils from
10 corn, soybeans, sunflower seeds, cottonseeds, canola,
11 crambe, rapeseeds, safflowers, flaxseeds, rice bran, and
12 mustard seeds, and from animal fats.

13 “(3) *MIXTURE OR BIODIESEL NOT USED AS A*
14 *FUEL, ETC.*—

15 “(A) *MIXTURES.*—If—

16 “(i) any credit was determined under
17 this section with respect to biodiesel used in
18 the production of any qualified biodiesel
19 mixture, and

20 “(ii) any person—

21 “(I) separates the biodiesel from
22 the mixture, or

23 “(II) without separation, uses the
24 mixture other than as a fuel,

1 *then there is hereby imposed on such person a*
2 *tax equal to the product of the rate applicable*
3 *under subsection (b)(1)(A) and the number of*
4 *gallons of such biodiesel in such mixture.*

5 “(B) *BIODIESEL.—If—*

6 “(i) *any credit was determined under*
7 *this section with respect to the retail sale of*
8 *any biodiesel, and*

9 “(ii) *any person mixes such biodiesel*
10 *or uses such biodiesel other than as a fuel,*
11 *then there is hereby imposed on such person a*
12 *tax equal to the product of the rate applicable*
13 *under subsection (b)(2)(A) and the number of*
14 *gallons of such biodiesel.*

15 “(C) *APPLICABLE LAWS.—All provisions of*
16 *law, including penalties, shall, insofar as appli-*
17 *cable and not inconsistent with this section,*
18 *apply in respect of any tax imposed under sub-*
19 *paragraph (A) or (B) as if such tax were im-*
20 *posed by section 4081 and not by this chapter.*

21 “(4) *PASS-THRU IN THE CASE OF ESTATES AND*
22 *TRUSTS.—Under regulations prescribed by the Sec-*
23 *retary, rules similar to the rules of subsection (d) of*
24 *section 52 shall apply.*

1 “(e) *TERMINATION.*—*This section shall not apply to*
2 *any sale or use after December 31, 2006.*”.

3 (b) *CREDIT TREATED AS PART OF GENERAL BUSI-*
4 *NESS CREDIT.*—*Section 38(b) (relating to current year*
5 *business credit) is amended by striking “plus” at the end*
6 *of paragraph (14), by striking the period at the end of para-*
7 *graph (15) and inserting “, plus”, and by adding at the*
8 *end the following new paragraph:*

9 “(16) *the biodiesel fuels credit determined under*
10 *section 40A(a).*”.

11 (c) *CONFORMING AMENDMENTS.*—

12 (1) *Section 39(d) is amended by adding at the*
13 *end the following new paragraph:*

14 “(11) *NO CARRYBACK OF BIODIESEL FUELS*
15 *CREDIT BEFORE EFFECTIVE DATE.*—*No portion of the*
16 *unused business credit for any taxable year which is*
17 *attributable to the biodiesel fuels credit determined*
18 *under section 40A may be carried back to a taxable*
19 *year ending on or before September 30, 2004.*”.

20 (2)(A) *Section 87 is amended to read as follows:*

21 **“SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.**

22 “*Gross income includes—*

23 “(1) *the amount of the alcohol fuels credit deter-*
24 *mined with respect to the taxpayer for the taxable*
25 *year under section 40(a), and*

1 “(2) the biodiesel fuels credit determined with re-
2 spect to the taxpayer for the taxable year under sec-
3 tion 40A(a).”.

4 (B) The item relating to section 87 in the table
5 of sections for part II of subchapter B of chapter 1
6 is amended by striking “fuel credit” and inserting
7 “and biodiesel fuels credits”.

8 (3) Section 196(c) is amended by striking “and”
9 at the end of paragraph (9), by striking the period at
10 the end of paragraph (10) and inserting “, and”, and
11 by adding at the end the following new paragraph:

12 “(11) the biodiesel fuels credit determined under
13 section 40A(a).”.

14 (4) The table of sections for subpart D of part
15 IV of subchapter A of chapter 1 is amended by adding
16 after the item relating to section 40 the following new
17 item:

 “Sec. 40A. Biodiesel used as fuel.”.

18 (d) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to fuel produced, and sold or used, after
20 September 30, 2004, in taxable years ending after such date.

21 **Subtitle C—Fuel Fraud Prevention**

22 **SEC. 5200. SHORT TITLE.**

23 This subtitle may be cited as the “Fuel Fraud Preven-
24 tion Act of 2004”.

PART I—AVIATION JET FUEL**SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.**

(a) *RATE OF TAX.*—

(1) *IN GENERAL.*—Subparagraph (A) of section 4081(a)(2) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.”.

(2) *COMMERCIAL AVIATION.*—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

“(C) *TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.*—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(3) *NONTAXABLE USES.*—

(A) *IN GENERAL.*—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

1 “(e) *AVIATION-GRADE KEROSENE.*—*In the case of*
 2 *aviation-grade kerosene which is exempt from the tax im-*
 3 *posed by section 4041(c) (other than by reason of a prior*
 4 *imposition of tax) and which is removed from any refinery*
 5 *or terminal directly into the fuel tank of an aircraft, the*
 6 *rate of tax under section 4081(a)(2)(A)(iv) shall be zero.”.*

7 (B) *CONFORMING AMENDMENTS.*—

8 (i) *Subsection (b) of section 4082 is*
 9 *amended by adding at the end the following*
 10 *new flush sentence: “The term ‘nontaxable*
 11 *use’ does not include the use of aviation-*
 12 *grade kerosene in an aircraft.”.*

13 (ii) *Section 4082(d) is amended by*
 14 *striking paragraph (1) and by redesign-*
 15 *ating paragraphs (2) and (3) as para-*
 16 *graphs (1) and (2), respectively.*

17 (4) *NONAIRCRAFT USE OF AVIATION-GRADE KER-*
 18 *OSENE.*—

19 (A) *IN GENERAL.*—*Subparagraph (B) of*
 20 *section 4041(a)(1) is amended by adding at the*
 21 *end the following new sentence: “This subpara-*
 22 *graph shall not apply to aviation-grade ker-*
 23 *osene.”.*

24 (B) *CONFORMING AMENDMENT.*—*The head-*
 25 *ing for paragraph (1) of section 4041(a) is*

1 amended by inserting “AND KEROSENE” after
2 “DIESEL FUEL”.

3 (b) *COMMERCIAL AVIATION*.—Section 4083 is amended
4 redesignating subsections (b) and (c) as subsections (c) and
5 (d), respectively, and by inserting after subsection (a) the
6 following new subsection:

7 “(b) *COMMERCIAL AVIATION*.—For purposes of this
8 subpart, the term ‘commercial aviation’ means any use of
9 an aircraft in a business of transporting persons or prop-
10 erty for compensation or hire by air, unless properly allo-
11 cable to any transportation exempt from the taxes imposed
12 by section 4261 and 4271 by reason of section 4281 or 4282
13 or by reason of section 4261(h).”.

14 (c) *REFUNDS*.—

15 (1) *IN GENERAL*.—Paragraph (4) of section
16 6427(l) is amended to read as follows:

17 “(4) *REFUNDS FOR AVIATION-GRADE KER-*
18 *OSENE*.—

19 “(A) *NO REFUND OF CERTAIN TAXES ON*
20 *FUEL USED IN COMMERCIAL AVIATION*.—In the
21 case of aviation-grade kerosene used in commer-
22 cial aviation (as defined in section 4083(b))
23 (other than supplies for vessels or aircraft within
24 the meaning of section 4221(d)(3)), paragraph

1 (1) shall not apply to so much of the tax imposed
2 by section 4081 as is attributable to—

3 “(i) the Leaking Underground Storage
4 Tank Trust Fund financing rate imposed
5 by such section, and

6 “(ii) so much of the rate of tax speci-
7 fied in section 4081(a)(2)(A)(iv) as does not
8 exceed 4.3 cents per gallon.

9 “(B) PAYMENT TO ULTIMATE, REGISTERED
10 VENDOR.—With respect to aviation-grade ker-
11 osene, if the ultimate purchaser of such kerosene
12 waives (at such time and in such form and man-
13 ner as the Secretary shall prescribe) the right to
14 payment under paragraph (1) and assigns such
15 right to the ultimate vendor, then the Secretary
16 shall pay the amount which would be paid under
17 paragraph (1) to such ultimate vendor, but only
18 if such ultimate vendor—

19 “(i) is registered under section 4101,

20 and

21 “(ii) meets the requirements of sub-
22 paragraph (A), (B), or (D) of section
23 6416(a)(1).”.

24 (2) TIME FOR FILING CLAIMS.—Paragraph (4) of
25 section 6427(i) is amended by striking “subsection

1 (l)(5)” and inserting “paragraph (4)(B) or (5) of sub-
2 section (l)”.

3 (3) *CONFORMING AMENDMENT.*—Subparagraph
4 (B) of section 6427(l)(2) is amended to read as fol-
5 lows:

6 “(B) in the case of aviation-grade ker-
7 osene—

8 “(i) any use which is exempt from the
9 tax imposed by section 4041(c) other than
10 by reason of a prior imposition of tax, or

11 “(ii) any use in commercial aviation
12 (within the meaning of section 4083(b)).”.

13 (d) *REPEAL OF PRIOR TAXATION OF AVIATION*
14 *FUEL.*—

15 (1) *IN GENERAL.*—Part III of subchapter A of
16 chapter 32 is amended by striking subpart B and by
17 redesignating subpart C as subpart B.

18 (2) *CONFORMING AMENDMENTS.*—

19 (A) Section 4041(c) is amended to read as
20 follows:

21 “(c) *AVIATION-GRADE KEROSENE.*—

22 “(1) *IN GENERAL.*—There is hereby imposed a
23 tax upon aviation-grade kerosene—

1 “(A) sold by any person to an owner, lessee,
2 or other operator of an aircraft for use in such
3 aircraft, or

4 “(B) used by any person in an aircraft un-
5 less there was a taxable sale of such fuel under
6 subparagraph (A).

7 “(2) *EXEMPTION FOR PREVIOUSLY TAXED*
8 *FUEL.*—No tax shall be imposed by this subsection on
9 the sale or use of any aviation-grade kerosene if tax
10 was imposed on such liquid under section 4081 and
11 the tax thereon was not credited or refunded.

12 “(3) *RATE OF TAX.*—The rate of tax imposed by
13 this subsection shall be the rate of tax specified in sec-
14 tion 4081(a)(2)(A)(iv) which is in effect at the time
15 of such sale or use.”.

16 (B) Section 4041(d)(2) is amended by strik-
17 ing “section 4091” and inserting “section 4081”.

18 (C) Section 4041 is amended by striking
19 subsection (e).

20 (D) Section 4041 is amended by striking
21 subsection (i).

22 (E) Section 4041(m)(1) is amended to read
23 as follows:

1 “(1) *IN GENERAL.*—*In the case of the sale or use*
2 *of any partially exempt methanol or ethanol fuel, the*
3 *rate of the tax imposed by subsection (a)(2) shall be—*

4 “(A) *after September 30, 1997, and before*
5 *September 30, 2009—*

6 “(i) *in the case of fuel none of the alco-*
7 *hol in which consists of ethanol, 9.15 cents*
8 *per gallon, and*

9 “(ii) *in any other case, 11.3 cents per*
10 *gallon, and*

11 “(B) *after September 30, 2009—*

12 “(i) *in the case of fuel none of the alco-*
13 *hol in which consists of ethanol, 2.15 cents*
14 *per gallon, and*

15 “(ii) *in any other case, 4.3 cents per*
16 *gallon.”.*

17 “(F) *Sections 4101(a), 4103, 4221(a), and*
18 *6206 are each amended by striking “, 4081, or*
19 *4091” and inserting “or 4081”.*

20 “(G) *Section 6416(b)(2) is amended by strik-*
21 *ing “4091 or”.*

22 “(H) *Section 6416(b)(3) is amended by strik-*
23 *ing “or 4091” each place it appears.*

1 (I) Section 6416(d) is amended by striking
2 “or to the tax imposed by section 4091 in the
3 case of refunds described in section 4091(d)”.

4 (J) Section 6427 is amended by striking
5 subsection (f).

6 (K) Section 6427(j)(1) is amended by strik-
7 ing “, 4081, and 4091” and inserting “and
8 4081”.

9 (L)(i) Section 6427(l)(1) is amended to
10 read as follows:

11 “(1) *IN GENERAL.*—*Except as otherwise provided*
12 *in this subsection and in subsection (k), if any diesel*
13 *fuel or kerosene on which tax has been imposed by*
14 *section 4041 or 4081 is used by any person in a non-*
15 *taxable use, the Secretary shall pay (without interest)*
16 *to the ultimate purchaser of such fuel an amount*
17 *equal to the aggregate amount of tax imposed on such*
18 *fuel under section 4041 or 4081, as the case may be,*
19 *reduced by any refund paid to the ultimate vendor*
20 *under paragraph (4)(B).”.*

21 (ii) Paragraph (5)(B) of section 6427(l) is
22 amended by striking “Paragraph (1)(A) shall
23 not apply to kerosene” and inserting “Para-
24 graph (1) shall not apply to kerosene (other than
25 aviation-grade kerosene)”.

1 (M) Subparagraph (B) of section 6724(d)(1)
2 is amended by striking clause (xv) and by redesi-
3 gnating the succeeding clauses accordingly.

4 (N) Paragraph (2) of section 6724(d) is
5 amended by striking subparagraph (W) and by
6 redesignating the succeeding subparagraphs ac-
7 cordingly.

8 (O) Paragraph (1) of section 9502(b) is
9 amended by adding “and” at the end of subpara-
10 graph (B) and by striking subparagraphs (C)
11 and (D) and inserting the following new sub-
12 paragraph:

13 “(C) section 4081 with respect to aviation
14 gasoline and aviation-grade kerosene, and”.

15 (P) The last sentence of section 9502(b) is
16 amended to read as follows:

17 “*There shall not be taken into account under paragraph*
18 *(1) so much of the taxes imposed by section 4081 as are*
19 *determined at the rate specified in section 4081(a)(2)(B).”.*

20 (Q) Subsection (b) of section 9508 is
21 amended by striking paragraph (3) and by re-
22 designating paragraphs (4) and (5) as para-
23 graphs (3) and (4), respectively.

1 (R) Section 9508(c)(2)(A) is amended by
 2 striking “sections 4081 and 4091” and inserting
 3 “section 4081”.

4 (S) The table of subparts for part III of
 5 subchapter A of chapter 32 is amended to read
 6 as follows:

“Subpart A. Motor and aviation fuels.

“Subpart B. Special provisions applicable to fuels tax.”.

7 (T) The heading for subpart A of part III
 8 of subchapter A of chapter 32 is amended to read
 9 as follows:

10 **“Subpart A—Motor and Aviation Fuels”.**

11 (U) The heading for subpart B of part III
 12 of subchapter A of chapter 32 is amended to read
 13 as follows:

14 **“Subpart B—Special Provisions Applicable to Fuels**
 15 **Tax”.**

16 (e) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall apply to aviation-grade kerosene removed, en-
 18 tered, or sold after September 30, 2004.

19 (f) *FLOOR STOCKS TAX.*—

20 (1) *IN GENERAL.*—There is hereby imposed on
 21 aviation-grade kerosene held on October 1, 2004, by
 22 any person a tax equal to—

23 (A) the tax which would have been imposed
 24 before such date on such kerosene had the amend-

1 *ments made by this section been in effect at all*
2 *times before such date, reduced by*

3 *(B) the tax imposed before such date under*
4 *section 4091 of the Internal Revenue Code of*
5 *1986, as in effect on the day before the date of*
6 *the enactment of this Act.*

7 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
8 *MENT.—*

9 *(A) LIABILITY FOR TAX.—The person hold-*
10 *ing the kerosene on October 1, 2004, to which the*
11 *tax imposed by paragraph (1) applies shall be*
12 *liable for such tax.*

13 *(B) METHOD AND TIME FOR PAYMENT.—*
14 *The tax imposed by paragraph (1) shall be paid*
15 *at such time and in such manner as the Sec-*
16 *retary of the Treasury shall prescribe, including*
17 *the nonapplication of such tax on de minimis*
18 *amounts of kerosene.*

19 (3) *TRANSFER OF FLOOR STOCK TAX REVENUES*
20 *TO TRUST FUNDS.—For purposes of determining the*
21 *amount transferred to any trust fund, the tax im-*
22 *posed by this subsection shall be treated as imposed*
23 *by section 4081 of the Internal Revenue Code of*
24 *1986—*

1 (A) *at the Leaking Underground Storage*
2 *Tank Trust Fund financing rate under such sec-*
3 *tion to the extent of 0.1 cents per gallon, and*

4 (B) *at the rate under section*
5 *4081(a)(2)(A)(iv) to the extent of the remainder.*

6 (4) *HELD BY A PERSON.—For purposes of this*
7 *section, kerosene shall be considered as held by a per-*
8 *son if title thereto has passed to such person (whether*
9 *or not delivery to the person has been made).*

10 (5) *OTHER LAWS APPLICABLE.—All provisions of*
11 *law, including penalties, applicable with respect to*
12 *the tax imposed by section 4081 of such Code shall,*
13 *insofar as applicable and not inconsistent with the*
14 *provisions of this subsection, apply with respect to the*
15 *floor stock tax imposed by paragraph (1) to the same*
16 *extent as if such tax were imposed by such section.*

17 **SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE**
18 **AIRPORT AND AIRWAY TRUST FUND TO THE**
19 **HIGHWAY TRUST FUND TO REFLECT HIGH-**
20 **WAY USE OF JET FUEL.**

21 (a) *IN GENERAL.—Section 9502(d) is amended by*
22 *adding at the end the following new paragraph:*

23 “(7) *TRANSFERS FROM THE TRUST FUND TO*
24 *THE HIGHWAY TRUST FUND.—*

1 “(A) *IN GENERAL.*—*The Secretary shall pay*
2 *annually from the Airport and Airway Trust*
3 *Fund into the Highway Trust Fund an amount*
4 *(as determined by him) equivalent to amounts*
5 *received in the Airport and Airway Trust Fund*
6 *which are attributable to fuel that is used pri-*
7 *marily for highway transportation purposes.*

8 “(B) *AMOUNTS TRANSFERRED TO MASS*
9 *TRANSIT ACCOUNT.*—*The Secretary shall transfer*
10 *11 percent of the amounts paid into the High-*
11 *way Trust Fund under subparagraph (A) to the*
12 *Mass Transit Account established under section*
13 *9503(e).”.*

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *Subsection (a) of section 9503 is amended—*

16 (A) *by striking “appropriated or credited”*
17 *and inserting “paid, appropriated, or credited”,*
18 *and*

19 (B) *by striking “or section 9602(b)” and in-*
20 *serting “, section 9502(d)(7), or section 9602(b)”.*

21 (2) *Subsection (e)(1) of section 9503 is amended*
22 *by striking “or section 9602(b)” and inserting “, sec-*
23 *tion 9502(d)(7), or section 9602(b)”.*

24 (c) *EFFECTIVE DATE.*—*The amendments made by this*
25 *section shall take effect on October 1, 2004.*

PART II—DYED FUEL**2 SEC. 5221. DYE INJECTION EQUIPMENT.**

3 (a) *IN GENERAL.*—Section 4082(a)(2) (relating to ex-
4 emptions for diesel fuel and kerosene) is amended by insert-
5 ing “by mechanical injection” after “indelibly dyed”.

6 (b) *DYE INJECTOR SECURITY.*—Not later than June
7 30, 2004, the Secretary of the Treasury shall issue regula-
8 tions regarding mechanical dye injection systems described
9 in the amendment made by subsection (a), and such regula-
10 tions shall include standards for making such systems tam-
11 per resistant.

12 (c) *PENALTY FOR TAMPERING WITH OR FAILING TO*
13 *MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL*
14 *DYE INJECTION SYSTEMS.*—

15 (1) *IN GENERAL.*—Part I of subchapter B of
16 chapter 68 (relating to assessable penalties) is amend-
17 ed by adding after section 6715 the following new sec-
18 tion:

19 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
20 **SECURITY REQUIREMENTS FOR MECHANICAL**
21 **DYE INJECTION SYSTEMS.**

22 “(a) *IMPOSITION OF PENALTY.*—

23 “(1) *TAMPERING.*—If any person tampers with a
24 mechanical dye injection system used to indelibly dye
25 fuel for purposes of section 4082, then such person
26 shall pay a penalty in addition to the tax (if any).

1 “(2) *FAILURE TO MAINTAIN SECURITY REQUIRE-*
2 *MENTS.—If any operator of a mechanical dye injec-*
3 *tion system used to indelibly dye fuel for purposes of*
4 *section 4082 fails to maintain the security standards*
5 *for such system as established by the Secretary, then*
6 *such operator shall pay a penalty.*

7 “(b) *AMOUNT OF PENALTY.—The amount of the pen-*
8 *alty under subsection (a) shall be—*

9 “(1) *for each violation described in paragraph*
10 *(1), the greater of—*

11 “(A) *\$25,000, or*

12 “(B) *\$10 for each gallon of fuel involved,*
13 *and*

14 “(2) *for each—*

15 “(A) *failure to maintain security standards*
16 *described in paragraph (2), \$1,000, and*

17 “(B) *failure to correct a violation described*
18 *in paragraph (2), \$1,000 per day for each day*
19 *after which such violation was discovered or such*
20 *person should have reasonably known of such*
21 *violation.*

22 “(c) *JOINT AND SEVERAL LIABILITY.—*

23 “(1) *IN GENERAL.—If a penalty is imposed*
24 *under this section on any business entity, each officer,*
25 *employee, or agent of such entity or other contracting*

1 party who willfully participated in any act giving
2 rise to such penalty shall be jointly and severally lia-
3 ble with such entity for such penalty.

4 “(2) *AFFILIATED GROUPS.*—If a business entity
5 described in paragraph (1) is part of an affiliated
6 group (as defined in section 1504(a)), the parent cor-
7 poration of such entity shall be jointly and severally
8 liable with such entity for the penalty imposed under
9 this section.”.

10 (2) *CLERICAL AMENDMENT.*—The table of sec-
11 tions for part I of subchapter B of chapter 68 is
12 amended by adding after the item related to section
13 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security requirements for
mechanical dye injection systems.”.

14 (d) *EFFECTIVE DATE.*—The amendments made by
15 subsections (a) and (c) shall take effect 180 days after the
16 date on which the Secretary issues the regulations described
17 in subsection (b).

18 **SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR**
19 **TAXABLE USE OF DYED FUEL.**

20 (a) *IN GENERAL.*—Section 6715 is amended by insert-
21 ing at the end the following new subsection:

22 “(e) *NO ADMINISTRATIVE APPEAL FOR THIRD AND*
23 *SUBSEQUENT VIOLATIONS.*—In the case of any person who
24 is found to be subject to the penalty under this section after

1 *a chemical analysis of such fuel and who has been penalized*
2 *under this section at least twice after the date of the enact-*
3 *ment of this subsection, no administrative appeal or review*
4 *shall be allowed with respect to such finding except in the*
5 *case of a claim regarding—*

6 “(1) *fraud or mistake in the chemical analysis,*
7 *or*
8 “(2) *mathematical calculation of the amount of*
9 *the penalty.*”.

10 **(b) EFFECTIVE DATE.**—*The amendment made by this*
11 *section shall apply to penalties assessed after the date of*
12 *the enactment of this Act.*

13 **SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED**
14 **DYED FUEL MIXTURES.**

15 **(a) IN GENERAL.**—*Section 6715(a) (relating to dyed*
16 *fuel sold for use or used in taxable use, etc.) is amended*
17 *by striking “or” in paragraph (2), by inserting “or” at the*
18 *end of paragraph (3), and by inserting after paragraph (3)*
19 *the following new paragraph:*

20 “(4) *any person who has knowledge that a dyed*
21 *fuel which has been altered as described in paragraph*
22 *(3) sells or holds for sale such fuel for any use which*
23 *the person knows or has reason to know is not a non-*
24 *taxable use of such fuel.*”.

1 (b) *CONFORMING AMENDMENT.*—Section 6715(a)(3) is
2 amended by striking “alters, or attempts to alter,” and in-
3 serting “alters, chemically or otherwise, or attempts to so
4 alter,”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
6 section shall take effect on the date of the enactment of this
7 Act.

8 **SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTER-**
9 **CITY BUSES.**

10 (a) *IN GENERAL.*—Paragraph (3) of section 4082(b)
11 (relating to nontaxable use) is amended to read as follows:

12 “(3) any use described in section
13 4041(a)(1)(C)(iii)(II).”.

14 (b) *ULTIMATE VENDOR REFUND.*—Subsection (b) of
15 section 6427 is amended by adding at the end the following
16 new paragraph:

17 “(4) *REFUNDS FOR USE OF DIESEL FUEL IN*
18 *CERTAIN INTERCITY BUSES.*—

19 “(A) *IN GENERAL.*—With respect to any
20 fuel to which paragraph (2)(A) applies, if the ul-
21 timate purchaser of such fuel waives (at such
22 time and in such form and manner as the Sec-
23 retary shall prescribe) the right to payment
24 under paragraph (1) and assigns such right to
25 the ultimate vendor, then the Secretary shall pay

1 *the amount which would be paid under para-*
 2 *graph (1) to such ultimate vendor, but only if*
 3 *such ultimate vendor—*

4 *“(i) is registered under section 4101,*
 5 *and*

6 *“(ii) meets the requirements of sub-*
 7 *paragraph (A), (B), or (D) of section*
 8 *6416(a)(1).*

9 *“(B) CREDIT CARDS.—For purposes of this*
 10 *paragraph, if the sale of such fuel is made by*
 11 *means of a credit card, the person extending*
 12 *credit to the ultimate purchaser shall be deemed*
 13 *to be the ultimate vendor.”.*

14 *(c) PAYMENT OF REFUNDS.—Subparagraph (A) of sec-*
 15 *tion 6427(i)(4), as amended by section 5211 of this Act,*
 16 *is amended by inserting “subsections (b)(4) and” after*
 17 *“filed under”.*

18 *(b) EFFECTIVE DATE.—The amendments made by this*
 19 *section shall apply to fuel sold after September 30, 2004.*

20 **PART III—MODIFICATION OF INSPECTION OF**
 21 **RECORDS PROVISIONS**

22 **SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.**

23 *(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to*
 24 *administrative authority), as amended by section 5211 of*
 25 *this Act, is amended by striking “and” at the end of clause*

1 *(i) and by inserting after clause (ii) the following new*
2 *clause:*

3 *“(iii) inspecting any books and records*
4 *and any shipping papers pertaining to such*
5 *fuel, and”.*

6 ***(b) EFFECTIVE DATE.***—*The amendments made by this*
7 *section shall take effect on the date of the enactment of this*
8 *Act.*

9 ***SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.***

10 ***(a) IN GENERAL.***—*Part I of subchapter B of chapter*
11 *68 (relating to assessable penalties), as amended by section*
12 *5221 of this Act, is amended by adding at the end the fol-*
13 *lowing new section:*

14 ***“SEC. 6717. REFUSAL OF ENTRY.***

15 ***(a) IN GENERAL.***—*In addition to any other penalty*
16 *provided by law, any person who refuses to admit entry*
17 *or refuses to permit any other action by the Secretary au-*
18 *thorized by section 4083(d)(1) shall pay a penalty of \$1,000*
19 *for such refusal.*

20 ***(b) JOINT AND SEVERAL LIABILITY.***—

21 ***(1) IN GENERAL.***—*If a penalty is imposed*
22 *under this section on any business entity, each officer,*
23 *employee, or agent of such entity or other contracting*
24 *party who willfully participated in any act giving*

1 *rise to such penalty shall be jointly and severally lia-*
2 *ble with such entity for such penalty.*

3 “(2) *AFFILIATED GROUPS.*—*If a business entity*
4 *described in paragraph (1) is part of an affiliated*
5 *group (as defined in section 1504(a)), the parent cor-*
6 *poration of such entity shall be jointly and severally*
7 *liable with such entity for the penalty imposed under*
8 *this section.*

9 “(c) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
10 *shall be imposed under this section with respect to any fail-*
11 *ure if it is shown that such failure is due to reasonable*
12 *cause.”.*

13 (b) *CONFORMING AMENDMENTS.*—

14 (1) *Section 4083(d)(3), as amended by section*
15 *5211 of this Act, is amended—*

16 (A) *by striking “ENTRY.—The penalty” and*
17 *inserting: “ENTRY.—*

18 *“(A) FORFEITURE.—The penalty”, and*

19 (B) *by adding at the end the following new*
20 *subparagraph:*

21 “(B) *ASSESSABLE PENALTY.*—*For addi-*
22 *tional assessable penalty for the refusal to admit*
23 *entry or other refusal to permit an action by the*
24 *Secretary authorized by paragraph (1), see sec-*
25 *tion 6717.”.*

1 (2) *The table of sections for part I of subchapter*
 2 *B of chapter 68, as amended by section 5221 of this*
 3 *Act, is amended by adding at the end the following*
 4 *new item:*

“Sec. 6717. Refusal of entry.”.

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall take effect on October 1, 2004.*

7 ***PART IV—REGISTRATION AND REPORTING***
 8 ***REQUIREMENTS***

9 ***SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERA-***
 10 ***TORS REQUIRED FOR EXEMPTION OF BULK***
 11 ***TRANSFERS TO REGISTERED TERMINALS OR***
 12 ***REFINERIES.***

13 (a) *IN GENERAL.*—*Section 4081(a)(1)(B) (relating to*
 14 *exemption for bulk transfers to registered terminals or refin-*
 15 *eries) is amended—*

16 (1) *by inserting “by pipeline or vessel” after*
 17 *“transferred in bulk”, and*

18 (2) *by inserting “, the operator of such pipeline*
 19 *or vessel,” after “the taxable fuel”.*

20 (b) *CIVIL PENALTY FOR CARRYING TAXABLE FUELS*
 21 *BY NONREGISTERED PIPELINES OR VESSELS.*—

22 (1) *IN GENERAL.*—*Part I of subchapter B of*
 23 *chapter 68 (relating to assessable penalties), as*
 24 *amended by section 5232 of this Act, is amended by*
 25 *adding at the end the following new section:*

1 **“SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED**
2 **PIPELINES OR VESSELS.**

3 “(a) *IMPOSITION OF PENALTY.*—*If any person know-*
4 *ingly transfers any taxable fuel (as defined in section*
5 *4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to*
6 *an unregistered, such person shall pay a penalty in addi-*
7 *tion to the tax (if any).*

8 “(b) *AMOUNT OF PENALTY.*—

9 “(1) *IN GENERAL.*—*Except as provided in para-*
10 *graph (2), the amount of the penalty under subsection*
11 *(a) on each act shall be an amount equal to the great-*
12 *er of—*

13 “(A) \$10,000, or

14 “(B) \$1 per gallon.

15 “(2) *MULTIPLE VIOLATIONS.*—*In determining*
16 *the penalty under subsection (a) on any person, para-*
17 *graph (1) shall be applied by increasing the amount*
18 *in paragraph (1) by the product of such amount and*
19 *the number of prior penalties (if any) imposed by this*
20 *section on such person (or a related person or any*
21 *predecessor of such person or related person).*

22 “(c) *JOINT AND SEVERAL LIABILITY.*—

23 “(1) *IN GENERAL.*—*If a penalty is imposed*
24 *under this section on any business entity, each officer,*
25 *employee, or agent of such entity or other contracting*
26 *party who willfully participated in any act giving*

1 *rise to such penalty shall be jointly and severally lia-*
 2 *ble with such entity for such penalty.*

3 “(2) *AFFILIATED GROUPS.*—*If a business entity*
 4 *described in paragraph (1) is part of an affiliated*
 5 *group (as defined in section 1504(a)), the parent cor-*
 6 *poration of such entity shall be jointly and severally*
 7 *liable with such entity for the penalty imposed under*
 8 *this section.*

9 “(d) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
 10 *shall be imposed under this section with respect to any fail-*
 11 *ure if it is shown that such failure is due to reasonable*
 12 *cause.”.*

13 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 14 *tions for part I of subchapter B of chapter 68, as*
 15 *amended by section 5232 of this Act, is amended by*
 16 *adding at the end the following new item:*

 “*Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.”.*

17 (c) *PUBLICATION OF REGISTERED PERSONS.*—*Not*
 18 *later than June 30, 2004, the Secretary of the Treasury*
 19 *shall publish a list of persons required to be registered under*
 20 *section 4101 of the Internal Revenue Code of 1986.*

21 (d) *EFFECTIVE DATE.*—*The amendments made by*
 22 *subsections (a) and (b) shall take effect on October 1, 2004.*

23 **SEC. 5242. DISPLAY OF REGISTRATION.**

24 (a) *IN GENERAL.*—*Subsection (a) of section 4101 (re-*
 25 *lating to registration) is amended—*

1 “(b) *MULTIPLE VIOLATIONS.*—*In determining the pen-*
2 *alty under subsection (a) on any person, subsection (a) shall*
3 *be applied by increasing the amount in subsection (a) by*
4 *the product of such amount and the number of prior pen-*
5 *alties (if any) imposed by this section on such person (or*
6 *a related person or any predecessor of such person or related*
7 *person).*”

8 “(c) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
9 *shall be imposed under this section with respect to any fail-*
10 *ure if it is shown that such failure is due to reasonable*
11 *cause.*”

12 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
13 *tions for part I of subchapter B of chapter 68, as*
14 *amended by section 5241 of this Act, is amended by*
15 *adding at the end the following new item:*

“*Sec. 6719. Failure to display registration of vessel.*”

16 (c) *EFFECTIVE DATE.*—*The amendments made by this*
17 *section shall take effect on October 1, 2004.*

18 **SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN**
19 **TRADE ZONES, ETC.**

20 (a) *IN GENERAL.*—*Section 4101(a), as amended by*
21 *section 5242 of this Act, is amended by redesignating para-*
22 *graph (2) as paragraph (3), and by inserting after para-*
23 *graph (1) the following new paragraph:*

1 “(2) *REGISTRATION OF PERSONS WITHIN FOR-*
2 *EIGN TRADE ZONES, ETC.*—*The Secretary shall re-*
3 *quire registration by any person which—*

4 “(A) *operates a terminal or refinery within*
5 *a foreign trade zone or within a customs bonded*
6 *storage facility, or*

7 “(B) *holds an inventory position with re-*
8 *spect to a taxable fuel in such a terminal.*”.

9 (b) *EFFECTIVE DATE.*—*The amendments made by this*
10 *section shall take effect on October 1, 2004.*

11 **SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND**
12 **FAILURE TO REPORT.**

13 (a) *INCREASED PENALTY.*—*Subsection (a) of section*
14 *7272 (relating to penalty for failure to register) is amended*
15 *by inserting “(\$10,000 in the case of a failure to register*
16 *under section 4101)” after “\$50”.*

17 (b) *INCREASED CRIMINAL PENALTY.*—*Section 7232*
18 *(relating to failure to register under section 4101, false rep-*
19 *resentations of registration status, etc.) is amended by strik-*
20 *ing “\$5,000” and inserting “\$10,000”.*

21 (c) *ASSESSABLE PENALTY FOR FAILURE TO REG-*
22 *ISTER.*—

23 (1) *IN GENERAL.*—*Part I of subchapter B of*
24 *chapter 68 (relating to assessable penalties), as*

1 amended by section 5242 of this Act, is amended by
2 adding at the end the following new section:

3 **“SEC. 6720. FAILURE TO REGISTER.**

4 “(a) *FAILURE TO REGISTER.*—Every person who is re-
5 quired to register under section 4101 and fails to do so shall
6 pay a penalty in addition to the tax (if any).

7 “(b) *AMOUNT OF PENALTY.*—The amount of the pen-
8 alty under subsection (a) shall be—

9 “(1) \$10,000 for each initial failure to register,
10 and

11 “(2) \$1,000 for each day thereafter such person
12 fails to register.

13 “(c) *REASONABLE CAUSE EXCEPTION.*—No penalty
14 shall be imposed under this section with respect to any fail-
15 ure if it is shown that such failure is due to reasonable
16 cause.”.

17 (2) *CLERICAL AMENDMENT.*—The table of sec-
18 tions for part I of subchapter B of chapter 68, as
19 amended by section 5242 of this Act, is amended by
20 adding at the end the following new item:

 “Sec. 6720. Failure to register.”.

21 (d) *ASSESSABLE PENALTY FOR FAILURE TO RE-*
22 *PORT.*—

23 (1) *IN GENERAL.*—Part II of subchapter B of
24 chapter 68 (relating to assessable penalties) is amend-
25 ed by adding at the end the following new section:

1 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
2 **SECTION 4101.**

3 “(a) *IN GENERAL.*—*In the case of each failure de-*
4 *scribed in subsection (b) by any person with respect to a*
5 *vessel or facility, such person shall pay a penalty of \$10,000*
6 *in addition to the tax (if any).*

7 “(b) *FAILURES SUBJECT TO PENALTY.*—*For purposes*
8 *of subsection (a), the failures described in this subsection*
9 *are—*

10 “(1) *any failure to make a report under section*
11 *4101(d) on or before the date prescribed therefor, and*

12 “(2) *any failure to include all of the information*
13 *required to be shown on such report or the inclusion*
14 *of incorrect information.*

15 “(c) *REASONABLE CAUSE EXCEPTION.*—*No penalty*
16 *shall be imposed under this section with respect to any fail-*
17 *ure if it is shown that such failure is due to reasonable*
18 *cause.”*

19 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
20 *tions for part II of subchapter B of chapter 68 is*
21 *amended by adding at the end the following new item:*

“Sec. 6725. Failure to report information under section 4101.”

22 (e) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall apply to failures pending or occurring after*
24 *September 30, 2004.*

1 **SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIM-**
2 **ING CERTAIN TAX BENEFITS.**

3 (a) *IN GENERAL.*—Subpart C of part III of subchapter
4 A of chapter 32 is amended by adding at the end the fol-
5 lowing new section:

6 **“SEC. 4104. INFORMATION REPORTING FOR PERSONS**
7 **CLAIMING CERTAIN TAX BENEFITS.**

8 “(a) *IN GENERAL.*—The Secretary shall require any
9 person claiming tax benefits—

10 “(1) under the provisions of section 34, 40, and
11 40A to file a return at the time such person claims
12 such benefits (in such manner as the Secretary may
13 prescribe), and

14 “(2) under the provisions of section 4041(b)(2),
15 6426, or 6427(e) to file a monthly return (in such
16 manner as the Secretary may prescribe).

17 “(b) *CONTENTS OF RETURN.*—Any return filed under
18 this section shall provide such information relating to such
19 benefits and the coordination of such benefits as the Sec-
20 retary may require to ensure the proper administration and
21 use of such benefits.

22 “(c) *ENFORCEMENT.*—With respect to any person de-
23 scribed in subsection (a) and subject to registration require-
24 ments under this title, rules similar to rules of section
25 4222(c) shall apply with respect to any requirement under
26 this section.”.

1 (b) *CONFORMING AMENDMENT.*—*The table of sections*
2 *for subpart C of part III of subchapter A of chapter 32*
3 *is amended by adding at the end the following new item:*

 “*Sec. 4104. Information reporting for persons claiming certain tax benefits.*”

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
5 *section shall take effect on October 1, 2004.*

6 **SEC. 5246. ELECTRONIC REPORTING.**

7 (a) *IN GENERAL.*—*Section 4101(d), as amended by*
8 *section 5273 of this Act, is amended by adding at the end*
9 *the following new sentence: “Any person who is required*
10 *to report under this subsection and who has 25 or more*
11 *reportable transactions in a month shall file such report*
12 *in electronic format.”.*

13 (b) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall apply on October 1, 2004.*

15 **PART V—IMPORTS**

16 **SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT**
17 **REGISTERED.**

18 (a) *TAX AT POINT OF ENTRY WHERE IMPORTER NOT*
19 *REGISTERED.*—

20 (1) *IN GENERAL.*—*Subpart C of part III of sub-*
21 *chapter A of chapter 31, as amended by section 5245*
22 *of this Act, is amended by adding at the end the fol-*
23 *lowing new section:*

1 **“SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REG-**
2 **ISTERED.**

3 *“(a) IN GENERAL.—Any tax imposed under this part*
4 *on any person not registered under section 4101 for the*
5 *entry of a fuel into the United States shall be imposed at*
6 *the time and point of entry.*

7 *“(b) ENFORCEMENT OF ASSESSMENT.—If any person*
8 *liable for any tax described under subsection (a) has not*
9 *paid the tax or posted a bond, the Secretary may—*

10 *“(1) seize the fuel on which the tax is due, or*

11 *“(2) detain any vehicle transporting such fuel,*
12 *until such tax is paid or such bond is filed.*

13 *“(c) LEVY OF FUEL.—If no tax has been paid or no*
14 *bond has been filed within 5 days from the date the Sec-*
15 *retary seized fuel pursuant to subsection (b), the Secretary*
16 *may sell such fuel as provided under section 6336.”.*

17 *(2) CONFORMING AMENDMENT.—The table of sec-*
18 *tions for subpart C of part III of subchapter A of*
19 *chapter 31 of the Internal Revenue Code of 1986, as*
20 *amended by section 5245 of this Act, is amended by*
21 *adding after the last item the following new item:*

“Sec. 4105. Tax at entry where importer not registered.”.

22 *(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The*
23 *Secretary of Homeland Security is authorized to deny entry*
24 *into the United States of any shipment of a fuel which is*
25 *taxable under section 4081 of the Internal Revenue Code*

1 of 1986 if the person entering such shipment fails to pay
2 the tax imposed under such section or post a bond in ac-
3 cordance with the provisions of section 4105 of such Code.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall take effect on the date of the enactment of this
6 Act.

7 **SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO EN-**
8 **TERED CARGO.**

9 (a) *IN GENERAL.*—Subsection (a) of section 343 of the
10 Trade Act of 2002 is amended by inserting at the end the
11 following new paragraph:

12 “(4) *IN GENERAL.*—Subject to paragraphs (2)
13 and (3), not later than 1 year after the enactment of
14 this paragraph, the Secretary of Homeland Security,
15 together with the Secretary of the Treasury, shall pro-
16 mulgate regulations providing for the transmission to
17 the Internal Revenue Service, through an electronic
18 data interchange system, of information pertaining to
19 cargo of taxable fuels (as defined in section 4083 of
20 the Internal Revenue Code of 1986) destined for im-
21 portation into the United States prior to such impor-
22 tation.”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 section shall take effect on the date of the enactment of this
25 Act.

1 **PART VI—MISCELLANEOUS PROVISIONS**

2 **SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUIT-**
3 **ABLE FOR USE OR NOT IN A DIESEL-POW-**
4 **ERED VEHICLE OR TRAIN.**

5 (a) *IN GENERAL.*—Section 4083(a)(3) is amended—
6 (1) by striking “The term” and inserting the fol-
7 lowing:

8 “(A) *IN GENERAL.*—The term”, and

9 (2) by inserting at the end the following new
10 subparagraph:

11 “(B) *LIQUID SOLD AS DIESEL FUEL.*—The
12 term ‘diesel fuel’ includes any liquid which is
13 sold as or offered for sale as a fuel in a diesel-
14 powered highway vehicle or a diesel-powered
15 train.”.

16 (b) *CONFORMING AMENDMENTS.*—

17 (1) Section 40A(b)(1)(B), as amended by section
18 5103 of this Act, is amended by striking “4083(a)(3)”
19 and inserting “4083(a)(3)(A)”.

20 (2) Section 6426(c)(3), as added by section 5102
21 of this Act, is amended by striking “4083(a)(3)” and
22 inserting “4083(a)(3)(A)”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall take effect on the date of the enactment of this
25 Act.

1 **SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND**2 **CLAIMS WITH RESPECT TO FARMING.**3 *(a) IN GENERAL.—*4 *(1) REFUNDS.—Section 6427(l) is amended by*
5 *adding at the end the following new paragraph:*6 *“(6) REGISTERED VENDORS PERMITTED TO AD-*
7 *MINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL*
8 *FUEL AND KEROSENE SOLD TO FARMERS.—*9 *“(A) IN GENERAL.—In the case of diesel fuel*
10 *or kerosene used on a farm for farming purposes*
11 *(within the meaning of section 6420(c)), para-*
12 *graph (1) shall not apply to the aggregate*
13 *amount of such diesel fuel or kerosene if such*
14 *amount does not exceed 500 gallons (as deter-*
15 *mined under subsection (i)(5)(A)(iii)).*16 *“(B) PAYMENT TO ULTIMATE VENDOR.—The*
17 *amount which would (but for subparagraph (A))*
18 *have been paid under paragraph (1) with respect*
19 *to any fuel shall be paid to the ultimate vendor*
20 *of such fuel, if such vendor—*21 *“(i) is registered under section 4101,*
22 *and*23 *“(ii) meets the requirements of sub-*
24 *paragraph (A), (B), or (D) of section*
25 *6416(a)(1).”.*

1 (2) *FILING OF CLAIMS.*—Section 6427(i) is
2 amended by inserting at the end the following new
3 paragraph:

4 “(5) *SPECIAL RULE FOR VENDOR REFUNDS WITH*
5 *RESPECT TO FARMERS.*—

6 “(A) *IN GENERAL.*—A claim may be filed
7 under subsection (l)(6) by any person with re-
8 spect to fuel sold by such person for any pe-
9 riod—

10 “(i) for which \$200 or more (\$100 or
11 more in the case of kerosene) is payable
12 under subsection (l)(6),

13 “(ii) which is not less than 1 week,
14 and

15 “(iii) which is for not more than 500
16 gallons for each farmer for which there is a
17 claim.

18 Notwithstanding subsection (l)(1), paragraph
19 (3)(B) shall apply to claims filed under the pre-
20 ceding sentence.

21 “(B) *TIME FOR FILING CLAIM.*—No claim
22 filed under this paragraph shall be allowed un-
23 less filed on or before the last day of the first
24 quarter following the earliest quarter included in
25 the claim.”.

1 (3) *CONFORMING AMENDMENTS.*—

2 (A) *Section 6427(l)(5)(A) is amended to*
3 *read as follows:*

4 “(A) *IN GENERAL.*—*Paragraph (1) shall*
5 *not apply to diesel fuel or kerosene used by a*
6 *State or local government.”.*

7 (B) *The heading for section 6427(l)(5) is*
8 *amended by striking “FARMERS AND”.*

9 (b) *EFFECTIVE DATE.*—*The amendment made by this*
10 *section shall apply to fuels sold for nontaxable use after the*
11 *date of the enactment of this Act.*

12 **SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTI-**
13 **MATE VENDORS.**

14 (a) *IN GENERAL.*—*Paragraph (4) of section 6416(a)*
15 *(relating to abatements, credits, and refunds) is amended*
16 *to read as follows:*

17 “(4) *REGISTERED ULTIMATE VENDOR TO ADMIN-*
18 *ISTER CREDITS AND REFUNDS OF GASOLINE TAX.*—

19 “(A) *IN GENERAL.*—*For purposes of this*
20 *subsection, if an ultimate vendor purchases any*
21 *gasoline on which tax imposed by section 4081*
22 *has been paid and sells such gasoline to an ulti-*
23 *mate purchaser described in subparagraph (C)*
24 *or (D) of subsection (b)(2) (and such gasoline is*
25 *for a use described in such subparagraph), such*

1 ultimate vendor shall be treated as the person
2 (and the only person) who paid such tax, but
3 only if such ultimate vendor is registered under
4 section 4101. For purposes of this subparagraph,
5 if the sale of gasoline is made by means of a
6 credit card, the person extending the credit to the
7 ultimate purchaser shall be deemed to be the ulti-
8 mate vendor.

9 “(B) *TIMING OF CLAIMS.*—The procedure
10 and timing of any claim under subparagraph
11 (A) shall be the same as for claims under section
12 6427(i)(4), except that the rules of section
13 6427(i)(3)(B) regarding electronic claims shall
14 not apply unless the ultimate vendor has cer-
15 tified to the Secretary for the most recent quarter
16 of the taxable year that all ultimate purchasers
17 of the vendor are certified and entitled to a re-
18 fund under subparagraph (C) or (D) of sub-
19 section (b)(2).”.

20 (b) *CREDIT CARD PURCHASES OF DIESEL FUEL OR*
21 *KEROSENE BY STATE AND LOCAL GOVERNMENTS.*—Section
22 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, ker-
23 osene, and aviation fuel), as amended by section 5252 of
24 this Act, is amended by adding at the end the following
25 new sentence: “For purposes of this subparagraph, if the

1 *sale of diesel fuel or kerosene is made by means of a credit*
2 *card, the person extending the credit to the ultimate pur-*
3 *chaser shall be deemed to be the ultimate vendor.”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall take effect on October 1, 2004.*

6 **SEC. 5264. TWO-PARTY EXCHANGES.**

7 *(a) IN GENERAL.—Subpart C of part III of subchapter*
8 *A of chapter 32, as amended by section 5251 of this Act,*
9 *is amended by adding at the end the following new section:*

10 **“SEC. 4106. TWO-PARTY EXCHANGES.**

11 *“(a) IN GENERAL.—In a two-party exchange, the de-*
12 *livering person shall not be liable for the tax imposed under*
13 *of section 4081(a)(1)(A)(ii).*

14 *“(b) TWO-PARTY EXCHANGE.—The term ‘two-party*
15 *exchange’ means a transaction, other than a sale, in which*
16 *taxable fuel is transferred from a delivering person reg-*
17 *istered under section 4101 as a taxable fuel registrant to*
18 *a receiving person who is so registered where all of the fol-*
19 *lowing occur:*

20 *“(1) The transaction includes a transfer from the*
21 *delivering person, who holds the inventory position*
22 *for taxable fuel in the terminal as reflected in the*
23 *records of the terminal operator.*

1 “(1) *IN GENERAL.*—If in any taxable period a
2 highway motor vehicle is sold, destroyed, or stolen be-
3 fore the first day of the last month in such period and
4 not subsequently used during such taxable period, the
5 tax shall be reckoned proportionately from the first
6 day of the month in such period in which the first use
7 of such highway motor vehicle occurs to and including
8 the last day of the month in which such highway
9 motor vehicle was sold, destroyed, or stolen.

10 “(2) *DESTROYED.*—For purposes of paragraph
11 (1), a highway motor vehicle is destroyed if such vehi-
12 cle is damaged by reason of an accident or other cas-
13 ualty to such an extent that it is not economic to re-
14 build.”.

15 (2) *CONFORMING AMENDMENTS.*—

16 (A) Section 6156 (relating to installment
17 payment of tax on use of highway motor vehi-
18 cles) is repealed.

19 (B) The table of sections for subchapter A of
20 chapter 62 is amended by striking the item relat-
21 ing to section 6156.

22 (b) *DISPLAY OF TAX CERTIFICATE.*—Paragraph (2) of
23 section 4481(d) (relating to one tax liability for period) is
24 amended to read as follows:

1 “(2) *DISPLAY OF TAX CERTIFICATE.*—Every tax-
2 payer which pays the tax imposed under this section
3 with respect to a highway motor vehicle shall, not
4 later than 1 month after the due date of the return
5 of tax with respect to each taxable period, receive and
6 display on such vehicle an electronic identification
7 device prescribed by the Secretary.”.

8 (c) *ELECTRONIC FILING.*—Section 4481, as amended
9 by section 5001 of this Act, is amended by redesignating
10 subsection (e) as subsection (f) and by inserting after sub-
11 section (d) the following new subsection:

12 “(e) *ELECTRONIC FILING.*—Any taxpayer who files a
13 return under this section with respect to 25 or more vehicles
14 for any taxable period shall file such return electronically.”.

15 (d) *REPEAL OF REDUCTION IN TAX FOR CERTAIN*
16 *TRUCKS.*—Section 4483 of the Internal Revenue Code of
17 1986 is amended by striking subsection (f).

18 (e) *EFFECTIVE DATES.*—

19 (1) *IN GENERAL.*—Except as provided in para-
20 graph (2), the amendments made by this section shall
21 apply to taxable periods beginning after the date of
22 the enactment of this Act.

23 (2) *SUBSECTION (b).*—The amendment made by
24 subsection (b) shall take effect on October 1, 2005.

1 **SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PEN-**
2 **ALTIES TO THE HIGHWAY TRUST FUND.**

3 (a) *IN GENERAL.*—Subsection (b) of section 9503 (re-
4 lating to transfer to Highway Trust Fund of amounts
5 equivalent to certain taxes), as amended by section 5001
6 of this Act, is amended by redesignating paragraph (5) as
7 paragraph (6) and inserting after paragraph (4) the fol-
8 lowing new paragraph:

9 “(5) *CERTAIN PENALTIES.*—There are hereby ap-
10 propriated to the Highway Trust Fund amounts
11 equivalent to the penalties assessed under sections
12 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232,
13 and 7272 (but only with regard to penalties under
14 such section related to failure to register under section
15 4101).”.

16 (b) *CONFORMING AMENDMENTS.*—

17 (1) The heading of subsection (b) of section 9503
18 is amended by inserting “AND PENALTIES” after
19 “TAXES”.

20 (2) The heading of paragraph (1) of section
21 9503(b) is amended by striking “IN GENERAL” and
22 inserting “CERTAIN TAXES”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to penalties assessed after October 1,
25 2004.

1 **SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO**
2 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**
3 **MOVED FROM UNITED STATES.**

4 (a) *IN GENERAL.*—Section 4221(d)(2) (defining ex-
5 port) is amended by adding at the end the following new
6 sentence: “Such term does not include the delivery of a tax-
7 able fuel (as defined in section 4083(a)(1)) into a fuel tank
8 of a motor vehicle which is shipped or driven out of the
9 United States.”.

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) Section 4041(g) (relating to other exemp-
12 tions) is amended by adding at the end the following
13 new sentence: “Paragraph (3) shall not apply to the
14 sale for delivery of a liquid into a fuel tank of a
15 motor vehicle which is shipped or driven out of the
16 United States.”.

17 (2) Clause (iv) of section 4081(a)(1)(A) (relating
18 to tax on removal, entry, or sale) is amended by in-
19 serting “or at a duty-free sales enterprise (as defined
20 in section 555(b)(8) of the Tariff Act of 1930)” after
21 “section 4101”.

22 (c) *EFFECTIVE DATE.*—The amendments made by this
23 section shall apply to sales or deliveries made after the date
24 of the enactment of this Act.

1 **PART VII—TOTAL ACCOUNTABILITY**

2 **SEC. 5271. TOTAL ACCOUNTABILITY.**

3 (a) *TAXATION OF REPORTABLE LIQUIDS.—*

4 (1) *IN GENERAL.—Section 4081(a), as amended*
5 *by this Act, is amended—*

6 (A) *by inserting “or reportable liquid” after*
7 *“taxable fuel” each place it appears, and*

8 (B) *by inserting “such liquid” after “such*
9 *fuel” in paragraph (1)(A)(iv).*

10 (2) *RATE OF TAX.—Subparagraph (A) of section*
11 *4081(a)(2), as amended by section 5211 of this Act,*
12 *is amended by striking “and” at the end of clause*
13 *(iii), by striking the period at the end of clause (iv)*
14 *and inserting “, and”, and by adding at the end the*
15 *following new clause:*

16 “*(v) in the case of reportable liquids,*
17 *the rate determined under section*
18 *4083(c)(2).”.*

19 (3) *EXEMPTION.—Section 4081(a)(1) is amended*
20 *by adding at the end the following new subparagraph:*

21 “*(C) EXEMPTION FOR REGISTERED TRANS-*
22 *FERS OF REPORTABLE LIQUIDS.—The tax im-*
23 *posed by this paragraph shall not apply to any*
24 *removal, entry, or sale of a reportable liquid if—*

25 “*(i) such removal, entry, or sale is to*
26 *a registered person who certifies that such*

1 *liquid will not be used as a fuel or in the*
2 *production of a fuel, or*

3 “(ii) *the sale is to the ultimate pur-*
4 *chaser of such liquid.*”.

5 (4) *REPORTABLE LIQUIDS.—Section 4083, as*
6 *amended by this Act, is amended by redesignating*
7 *subsections (c) and (d) (as redesignated by section*
8 *5211 of this Act) as subsections (d) and (e), respec-*
9 *tively, and by inserting after subsection (b) the fol-*
10 *lowing new section:*

11 “(c) *REPORTABLE LIQUID.—For purposes of this sub-*
12 *part—*

13 “(1) *IN GENERAL.—The term ‘reportable liquid’*
14 *means any petroleum-based liquid other than a tax-*
15 *able fuel.*

16 “(2) *TAXATION.—*

17 “(A) *GASOLINE BLEND STOCKS AND ADDI-*
18 *TIVES.—Gasoline blend stocks and additives*
19 *which are reportable liquids (as defined in para-*
20 *graph (1)) shall be subject to the rate of tax*
21 *under clause (i) of section 4081(a)(2)(A).*

22 “(B) *OTHER REPORTABLE LIQUIDS.—Any*
23 *reportable liquid (as defined in paragraph (1))*
24 *not described in subparagraph (A) shall be sub-*

1 *ject to the rate of tax under clause (iii) of section*
2 *4081(a)(2)(A).”.*

3 (5) *CONFORMING AMENDMENTS.—*

4 (A) *Section 4081(e) is amended by inserting*
5 *“or reportable liquid” after “taxable fuel”.*

6 (B) *Section 4083(d) (relating to certain use*
7 *defined as removal), as redesignated by para-*
8 *graph (4), is amended by inserting “or report-*
9 *able liquid” after “taxable fuel”.*

10 (C) *Section 4083(e)(1) (relating to adminis-*
11 *trative authority), as redesignated by paragraph*
12 *(4), is amended—*

13 (i) *in subparagraph (A)—*

14 (I) *by inserting “or reportable liq-*
15 *uid” after “taxable fuel”, and*

16 (II) *by inserting “or such liquid”*
17 *after “such fuel” each place it appears,*
18 *and*

19 (ii) *in subparagraph (B), by inserting*
20 *“or any reportable liquid” after “any tax-*
21 *able fuel”.*

22 (D) *Section 4101(a)(2), as added by section*
23 *5243 of this Act, is amended by inserting “or a*
24 *reportable liquid” after “taxable fuel”.*

1 (E) Section 4101(a)(3), as added by section
2 5242 of this Act and redesignated by section
3 5243 of this Act, is amended by inserting “or
4 any reportable liquid” before the period at the
5 end.

6 (F) Section 4102 is amended by inserting
7 “or any reportable liquid” before the period at
8 the end.

9 (G)(i) Section 6718, as added by section
10 5241 of this Act, is amended—

11 (I) in subsection (a), by inserting “or
12 any reportable liquid (as defined in section
13 4083(c)(1))” after “ section 4083(a)(1))”,
14 and

15 (II) in the heading, by inserting “or
16 reportable liquids” after “taxable fuel”.

17 (ii) The item relating to section 6718 in
18 table of sections for part I of subchapter B of
19 chapter 68, as added by section 5241 of this Act,
20 is amended by inserting “or reportable liquids”
21 after “taxable fuels”.

22 (H) Section 6427(h) is amended to read as
23 follows:

1 “(h) *GASOLINE BLEND STOCKS OR ADDITIVES AND*
2 *REPORTABLE LIQUIDS.—Except as provided in subsection*
3 *(k)—*

4 “(1) *if any gasoline blend stock or additive*
5 *(within the meaning of section 4083(a)(2)) is not*
6 *used by any person to produce gasoline and such per-*
7 *son establishes that the ultimate use of such gasoline*
8 *blend stock or additive is not to produce gasoline, or*

9 “(2) *if any reportable liquid (within the mean-*
10 *ing of section 4083(c)(1)) is not used by any person*
11 *to produce a taxable fuel and such person establishes*
12 *that the ultimate use of such reportable liquid is not*
13 *to produce a taxable fuel,*

14 *then the Secretary shall pay (without interest) to such per-*
15 *son an amount equal to the aggregate amount of the tax*
16 *imposed on such person with respect to such gasoline blend*
17 *stock or additive or such reportable fuel.”.*

18 *(I) Section 7232, as amended by this Act,*
19 *is amended by inserting “or reportable liquid*
20 *(within the meaning of section 4083(c)(1))” after*
21 *“section 4083”.*

22 *(J) Section 343 of the Trade Act of 2002, as*
23 *amended by section 5252 of this Act, is amended*
24 *by inserting “and reportable liquids (as defined*

1 *in section 4083(c)(1) of such Code)*” after “*Inter-*
2 *nal Revenue Code of 1986)*”.

3 **(b) DYED DIESEL.**—*Section 4082(a) is amended by*
4 *striking “and” at the end of paragraph (2), by striking the*
5 *period at the end of paragraph (3) and inserting “and”,*
6 *and by inserting after paragraph (3) the following new*
7 *paragraph:*

8 *“(4) which is removed, entered, or sold by a per-*
9 *son registered under section 4101.”.*

10 **(c) EFFECTIVE DATE.**—*The amendments made by this*
11 *section shall apply to reportable liquids (as defined in sec-*
12 *tion 4083(c) of the Internal Revenue Code) and fuel sold*
13 *or used after September 30, 2004.*

14 **SEC. 5272. EXCISE TAX REPORTING.**

15 **(a) IN GENERAL.**—*Part II of subchapter A of chapter*
16 *61 is amended by adding at the end the following new sub-*
17 *part:*

18 **“Subpart E—Excise Tax Reporting**

19 **“SEC. 6025. RETURNS RELATING TO FUEL TAXES.**

20 **“(a) IN GENERAL.**—*The Secretary shall require any*
21 *person liable for the tax imposed under Part III of sub-*
22 *chapter A of chapter 32 to file a return of such tax on a*
23 *monthly basis.*

24 **“(b) INFORMATION INCLUDED WITH RETURN.**—*The*
25 *Secretary shall require any person filing a return under*

1 *subsection (a) to provide information regarding any refined*
2 *product (whether or not such product is taxable under this*
3 *title) removed from a terminal during the period for which*
4 *such return applies.”.*

5 *(b) CONFORMING AMENDMENT.—The table of parts for*
6 *subchapter A of chapter 61 is amended by adding at the*
7 *end the following new item:*

“Subpart E—Excise Tax Reporting”.

8 *(c) EFFECTIVE DATE.—The amendments made by this*
9 *section shall apply to fuel sold or used after September 30,*
10 *2004.*

11 **SEC. 5273. INFORMATION REPORTING.**

12 *(a) IN GENERAL.—Section 4101(d) is amended by*
13 *adding at the end the following new flush sentence:*

14 *“The Secretary shall require reporting under the previous*
15 *sentence with respect to taxable fuels removed, entered, or*
16 *transferred from any refinery, pipeline, or vessel which is*
17 *registered under this section.”.*

18 *(b) EFFECTIVE DATE.—The amendment made by this*
19 *section shall apply on October 1, 2004.*

20 ***Subtitle D—Definition of Highway***
21 ***Vehicle***

22 **SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR**
23 ***MOBILE MACHINERY.***

24 *(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND*
25 *TRAILERS SOLD AT RETAIL.—*

1 (1) *IN GENERAL.*—Section 4053 (relating to ex-
2 emptions) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(8) *MOBILE MACHINERY.*—Any vehicle which
5 consists of a chassis—

6 “(A) to which there has been permanently
7 mounted (by welding, bolting, riveting, or other
8 means) machinery or equipment to perform a
9 construction, manufacturing, processing, farm-
10 ing, mining, drilling, timbering, or similar oper-
11 ation if the operation of the machinery or equip-
12 ment is unrelated to transportation on or off the
13 public highways,

14 “(B) which has been specially designed to
15 serve only as a mobile carriage and mount (and
16 a power source, where applicable) for the par-
17 ticular machinery or equipment involved, wheth-
18 er or not such machinery or equipment is in op-
19 eration, and

20 “(C) which, by reason of such special de-
21 sign, could not, without substantial structural
22 modification, be used as a component of a vehicle
23 designed to perform a function of transporting
24 any load other than that particular machinery

1 *or equipment or similar machinery or equipment*
 2 *requiring such a specially designed chassis.”.*

3 (2) *EFFECTIVE DATE.*—*The amendment made by*
 4 *this subsection shall take effect on the day after the*
 5 *date of the enactment of this Act.*

6 (b) *EXEMPTION FROM TAX ON USE OF CERTAIN VEHI-*
 7 *CLES.*—

8 (1) *IN GENERAL.*—*Section 4483 (relating to ex-*
 9 *emptions) is amended by redesignating subsection (g)*
 10 *as subsection (h) and by inserting after subsection (f)*
 11 *the following new subsection:*

12 “(g) *EXEMPTION FOR MOBILE MACHINERY.*—*No tax*
 13 *shall be imposed by section 4481 on the use of any vehicle*
 14 *described in section 4053(8).”.*

15 (2) *EFFECTIVE DATE.*—*The amendments made*
 16 *by this subsection shall take effect on the day after the*
 17 *date of the enactment of this Act.*

18 (d) *EXEMPTION FROM FUEL TAXES.*—

19 (1) *IN GENERAL.*—*Section 6421(e)(2) (defining*
 20 *off-highway business use) is amended by adding at*
 21 *the end the following new subparagraph:*

22 “(C) *USES IN MOBILE MACHINERY.*—

23 “(i) *IN GENERAL.*—*The term ‘off-high-*
 24 *way business use’ shall include any use in*

1 *a vehicle which meets the requirements de-*
2 *scribed in clause (ii).*

3 “(ii) *REQUIREMENTS FOR MOBILE MA-*
4 *CHINERY.—The requirements described in*
5 *this clause are—*

6 “(I) *the design-based test, and*

7 “(II) *the use-based test.*

8 “(iii) *DESIGN-BASED TEST.—For pur-*
9 *poses of clause (ii)(I), the design-based test*
10 *is met if the vehicle consists of a chassis—*

11 “(I) *to which there has been per-*
12 *manently mounted (by welding, bolt-*
13 *ing, riveting, or other means) machin-*
14 *ery or equipment to perform a con-*
15 *struction, manufacturing, processing,*
16 *farming, mining, drilling, timbering,*
17 *or similar operation if the operation of*
18 *the machinery or equipment is unre-*
19 *lated to transportation on or off the*
20 *public highways,*

21 “(II) *which has been specially de-*
22 *signed to serve only as a mobile car-*
23 *riage and mount (and a power source,*
24 *where applicable) for the particular*
25 *machinery or equipment involved,*

1 *whether or not such machinery or*
2 *equipment is in operation, and*

3 “(III) *which, by reason of such*
4 *special design, could not, without sub-*
5 *stantial structural modification, be*
6 *used as a component of a vehicle de-*
7 *signed to perform a function of trans-*
8 *porting any load other than that par-*
9 *ticular machinery or equipment or*
10 *similar machinery or equipment re-*
11 *quiring such a specially designed chas-*
12 *sis.*

13 “(iv) *USE-BASED TEST.—For purposes*
14 *of clause (ii)(II), the use-based test is met if*
15 *the use of the vehicle on public highways*
16 *was less than 5,000 miles during the tax-*
17 *payer’s taxable year.*

18 “(v) *SPECIAL RULE FOR USE BY CER-*
19 *TAIN TAX-EXEMPT ORGANIZATIONS.—In the*
20 *case of any use in a vehicle by an organiza-*
21 *tion which is described in section 501(c)*
22 *and exempt from tax under section 501(a),*
23 *clause (ii) shall be applied without regard*
24 *to subclause (II) thereof.”.*

1 (2) *ANNUAL REFUND OF TAX PAID.*—Section
2 6427(i)(2) (relating to exceptions) is amended by add-
3 ing at the end the following new subparagraph:

4 “(C) *NONAPPLICATION OF PARAGRAPH.*—
5 This paragraph shall not apply to any fuel used
6 in any off-highway business use described in sec-
7 tion 6421(e)(2)(C).”.

8 (3) *EFFECTIVE DATE.*—The amendments made
9 by this subsection shall apply to taxable years begin-
10 ning after the date of the enactment of this Act.

11 **SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY**
12 **VEHICLE.**

13 (a) *IN GENERAL.*—Section 7701(a) (relating to defini-
14 tions) is amended by adding at the end the following new
15 paragraph:

16 “(48) *OFF-HIGHWAY VEHICLES.*—

17 “(A) *OFF-HIGHWAY TRANSPORTATION VEHI-*
18 *CLES.*—

19 “(i) *IN GENERAL.*—A vehicle shall not
20 be treated as a highway vehicle if such vehi-
21 cle is specially designed for the primary
22 function of transporting a particular type
23 of load other than over the public highway
24 and because of this special design such vehi-
25 cle’s capability to transport a load over the

1 *public highway is substantially limited or*
2 *impaired.*

3 “(ii) *DETERMINATION OF VEHICLE’S*
4 *DESIGN.—For purposes of clause (i), a vehi-*
5 *cle’s design is determined solely on the basis*
6 *of its physical characteristics.*

7 “(iii) *DETERMINATION OF SUBSTAN-*
8 *TIAL LIMITATION OR IMPAIRMENT.—For*
9 *purposes of clause (i), in determining*
10 *whether substantial limitation or impair-*
11 *ment exists, account may be taken of factors*
12 *such as the size of the vehicle, whether such*
13 *vehicle is subject to the licensing, safety,*
14 *and other requirements applicable to high-*
15 *way vehicles, and whether such vehicle can*
16 *transport a load at a sustained speed of at*
17 *least 25 miles per hour. It is immaterial*
18 *that a vehicle can transport a greater load*
19 *off the public highway than such vehicle is*
20 *permitted to transport over the public high-*
21 *way.*

22 “(B) *NONTRANSPORTATION TRAILERS AND*
23 *SEMITRAILERS.—A trailer or semitrailer shall*
24 *not be treated as a highway vehicle if it is spe-*
25 *cially designed to function only as an enclosed*

1 *stationary shelter for the carrying on of an off-*
 2 *highway function at an off-highway site.”.*

3 (c) *EFFECTIVE DATES.*—

4 (1) *IN GENERAL.*—*Except as provided in para-*
 5 *graph (2), the amendment made by this section shall*
 6 *take effect on the date of the enactment of this Act.*

7 (2) *FUEL TAXES.*—*With respect to taxes imposed*
 8 *under subchapter B of chapter 31 and part III of sub-*
 9 *chapter A of chapter 32, the amendment made by this*
 10 *section shall apply to taxable periods beginning after*
 11 *the date of the enactment of this Act.*

12 ***Subtitle E—Excise Tax Reform and***
 13 ***Simplification***

14 ***PART I—HIGHWAY EXCISE TAXES***

15 ***SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY***
 16 ***TRUST FUND.***

17 (a) *IN GENERAL.*—*Section 9503(b)(1) (relating to*
 18 *transfer to Highway Trust Fund of amounts equivalent to*
 19 *certain taxes), as amended by section 5101 of this Act, is*
 20 *amended by redesignating subparagraphs (C), (D), and (E)*
 21 *as subparagraphs (D), (E), and (F), respectively, and by*
 22 *inserting after subparagraph (B) the following new sub-*
 23 *paragraph:*

24 “(C) *section 4064 (relating to gas guzzler*
 25 *tax),”.*

1 (b) *UNIFORM APPLICATION OF TAX.*—Subparagraph
2 (A) of section 4064(b)(1) (defining automobile) is amended
3 by striking the second sentence.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall take effect on the date of the enactment of this
6 Act.

7 **SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL**
8 **FUEL AND INLAND WATERWAY BARGE FUELS.**

9 (a) *TAXES ON TRAINS.*—

10 (1) *IN GENERAL.*—Subparagraph (A) of section
11 4041(a)(1) is amended by striking “or a diesel-pow-
12 ered train” each place it appears and by striking “or
13 train”.

14 (2) *CONFORMING AMENDMENTS.*—

15 (A) Subparagraph (C) of section
16 4041(a)(1), as amended by section 5001 of this
17 Act, is amended by striking clause (ii) and by
18 redesignating clause (iii) as clause (ii).

19 (B) Subparagraph (C) of section 4041(b)(1)
20 is amended by striking all that follows “section
21 6421(e)(2)” and inserting a period.

22 (C) Subsection (d) of section 4041 is
23 amended by redesignating paragraph (3) as
24 paragraph (4) and by inserting after paragraph
25 (2) the following new paragraph:

1 “(3) *DIESEL FUEL USED IN TRAINS.*—*There is*
2 *hereby imposed a tax of 0.1 cent per gallon on any*
3 *liquid other than gasoline (as defined in section*
4 *4083)*—

5 “(A) *sold by any person to an owner, lessee,*
6 *or other operator of a diesel-powered train for*
7 *use as a fuel in such train, or*

8 “(B) *used by any person as a fuel in a die-*
9 *sel-powered train unless there was a taxable sale*
10 *of such fuel under subparagraph (A).*

11 *No tax shall be imposed by this paragraph on the sale*
12 *or use of any liquid if tax was imposed on such liq-*
13 *uid under section 4081.”.*

14 (D) *Subsection (f) of section 4082 is amend-*
15 *ed by striking “section 4041(a)(1)” and inserting*
16 *“subsections (d)(3) and (a)(1) of section 4041,*
17 *respectively”.*

18 (E) *Subparagraphs (A) and (B) of section*
19 *4083(a)(3), as amended by section 5261 of this*
20 *Act, are amended by striking “or a diesel-pow-*
21 *ered train”.*

22 (F) *Paragraph (3) of section 6421(f) is*
23 *amended to read as follows:*

24 “(3) *GASOLINE USED IN TRAINS.*—*In the case of*
25 *gasoline used as a fuel in a train, this section shall*

1 *not apply with respect to the Leaking Underground*
2 *Storage Tank Trust Fund financing rate under sec-*
3 *tion 4081.”.*

4 (G) *Paragraph (3) of section 6427(l) is*
5 *amended to read as follows:*

6 “(3) *REFUND OF CERTAIN TAXES ON FUEL USED*
7 *IN DIESEL-POWERED TRAINS.—For purposes of this*
8 *subsection, the term ‘nontaxable use’ includes fuel*
9 *used in a diesel-powered train. The preceding sentence*
10 *shall not apply to the tax imposed by section 4041(d)*
11 *and the Leaking Underground Storage Tank Trust*
12 *Fund financing rate under section 4081 except with*
13 *respect to fuel sold for exclusive use by a State or any*
14 *political subdivision thereof.”.*

15 (b) *FUEL USED ON INLAND WATERWAYS.—*

16 (1) *IN GENERAL.—Paragraph (1) of section*
17 *4042(b) is amended by adding “and” at the end of*
18 *subparagraph (A), by striking “, and” at the end of*
19 *subparagraph (B) and inserting a period, and by*
20 *striking subparagraph (C).*

21 (2) *CONFORMING AMENDMENT.—Paragraph (2)*
22 *of section 4042(b) is amended by striking subpara-*
23 *graph (C).*

24 (c) *EFFECTIVE DATE.—The amendments made by this*
25 *section shall take effect on October 1, 2004.*

1 **PART II—AQUATIC EXCISE TAXES**

2 **SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST**

3 **FUND AND TRANSFORMATION OF SPORT FISH**

4 **RESTORATION ACCOUNT.**

5 (a) *SIMPLIFICATION OF FUNDING FOR BOAT SAFETY*

6 *ACCOUNT.—*

7 (1) *IN GENERAL.—Section 9503(c)(3) (relating*
8 *to transfers from Trust Fund for motorboat fuel*
9 *taxes), as redesignated by section 5002 of this Act, is*
10 *amended—*

11 (A) *by striking “Fund—” and all that fol-*
12 *lows through “shall be transferred” in subpara-*
13 *graph (B) and inserting “Fund which is attrib-*
14 *utable to motorboat fuel taxes shall be trans-*
15 *ferred”, and*

16 (B) *by striking subparagraph (A), and*

17 (C) *by redesignating subparagraphs (B)*
18 *through (E) as subparagraphs (A) through (D),*
19 *respectively.*

20 (2) *CONFORMING AMENDMENTS.—*

21 (A) *Section 9503(b)(4), as amended by sec-*
22 *tion 5102 of this Act, is amended—*

23 (i) *by adding “or” at the end of sub-*
24 *paragraph (B),*

1 (ii) by striking the comma at the end
2 of subparagraph (C) and inserting a period,
3 and

4 (iii) by striking subparagraph (D).

5 (B) Subparagraph (B) of section 9503(c)(3),
6 as redesignated by section 5002 of this Act and
7 subsection (a)(3), is amended—

8 (i) by striking “ACCOUNT” in the head-
9 ing and inserting “TRUST FUND”,

10 (ii) by striking “or (B)” in clause (ii),
11 and

12 (iii) by striking “Account in the
13 Aquatic Resources”.

14 (C) Subparagraph (C) of section 9503(c)(3),
15 as redesignated by section 5002 of this Act and
16 subsection (a)(3), is amended by striking “, but
17 only to the extent such taxes are deposited into
18 the Highway Trust Fund”.

19 (D) Paragraph (4) of section 9503(c), as re-
20 designated by section 5002 of this Act, is amend-
21 ed—

22 (i) by striking “Account in the Aquatic
23 Resources” in subparagraph (A), and

1 (ii) by striking “, but only to the ex-
2 tent such taxes are deposited into the High-
3 way Trust Fund” in subparagraph (B).

4 (b) *MERGING OF ACCOUNTS.*—

5 (1) *IN GENERAL.*—Subsection (a) of section 9504
6 is amended to read as follows:

7 “(a) *CREATION OF TRUST FUND.*—There is hereby es-
8 tablished in the Treasury of the United States a trust fund
9 to be known as the ‘Sport Fish Restoration Trust Fund’.
10 Such Trust Fund shall consist of such amounts as may be
11 appropriated, credited, or paid to it as provided in this
12 section, section 9503(c)(3), section 9503(c)(4), or section
13 9602(b).”.

14 (2) *CONFORMING AMENDMENTS.*—

15 (A) Subsection (b) of section 9504 is amend-
16 ed—

17 (i) by striking “ACCOUNT” in the head-
18 ing and inserting “TRUST FUND”,

19 (ii) by striking “Account” both places
20 it appears in paragraphs (1) and (2) and
21 inserting “Trust Fund”, and

22 (iii) by striking “ACCOUNT” both
23 places it appears in the headings for para-
24 graphs (1) and (2) and inserting “TRUST
25 FUND”.

1 (B) Subsection (d) of section 9504, as
2 amended by section 5001 of this Act, is amend-
3 ed—

4 (i) by striking “AQUATIC RESOURCES”
5 in the heading,

6 (ii) by striking “any Account in the
7 Aquatic Resources” in paragraph (1) and
8 inserting “the Sports Fish Restoration”,
9 and

10 (iii) by striking “any such Account”
11 in paragraph (1) and inserting “such Trust
12 Fund”.

13 (C) Subsection (e) of section 9504, as
14 amended by section 5002 of this Act, is amended
15 by striking “Boat Safety Account and Sport
16 Fish Restoration Account” and inserting “Sport
17 Fish Restoration Trust Fund”.

18 (D) Section 9504 is amended by striking
19 “**AQUATIC RESOURCES**” in the heading and
20 inserting “**SPORT FISH RESTORATION**”.

21 (E) The item relating to section 9504 in the
22 table of sections for subchapter A of chapter 98
23 is amended by striking “aquatic resources” and
24 inserting “sport fish restoration”.

1 (c) *PHASEOUT OF BOAT SAFETY ACCOUNT.*—Sub-
2 section (c) of section 9504 is amended to read as follows:

3 “(c) *EXPENDITURES FROM BOAT SAFETY ACCOUNT.*—
4 Amounts remaining in the Boat Safety Account on October
5 1, 2004, and amounts thereafter credited to the Account
6 under section 9602(b), shall be available, as provided by
7 appropriation Acts, for making expenditures before October
8 1, 2009, to carry out the purposes of section 13106 of title
9 46, United States Code (as in effect on the date of the enact-
10 ment of the Safe, Accountable, Flexible, and Efficient
11 Transportation Equity Act of 2004).”.

12 (d) *EFFECTIVE DATE.*—The amendments made by this
13 section shall take effect on October 1, 2004.

14 **SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DE-**
15 **VICES SUITABLE FOR FINDING FISH.**

16 (a) *IN GENERAL.*—Section 4162(b) (defining sonar de-
17 vice suitable for finding fish) is amended by striking “or”
18 at the end of paragraph (3), by striking the period at the
19 end of paragraph (4) and inserting “, or”, and by adding
20 at the end the following new paragraph:

21 “(5) an LED display.”.

22 (b) *EFFECTIVE DATE.*—The amendments made by this
23 section shall apply to articles sold by the manufacturer,
24 producer, or importer after September 30, 2004.

1 **SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EX-**
2 **PORTS.**

3 (a) *IN GENERAL.*—Subsection (d) of section 4462 (re-
4 lating to definitions and special rules) is amended to read
5 as follows:

6 “(d) *NONAPPLICABILITY OF TAX TO EXPORTS.*—The
7 tax imposed by section 4461(a) shall not apply to any port
8 use with respect to any commercial cargo to be exported
9 from the United States.”.

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) Section 4461(c)(1) is amended by adding
12 “or” at the end of subparagraph (A), by striking sub-
13 paragraph (B), and by redesignating subparagraph
14 (C) as subparagraph (B).

15 (2) Section 4461(c)(2) is amended by striking
16 “imposed—” and all that follows through “in any
17 other case,” and inserting “imposed”.

18 (c) *EFFECTIVE DATE.*—The amendments made by this
19 section shall take effect before, on, and after the date of the
20 enactment of this Act.

21 **SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING**
22 **EQUIPMENT.**

23 (a) *IN GENERAL.*—Paragraph (1) of section 4161(a)
24 (relating to sport fishing equipment) is amended to read
25 as follows:

26 “(1) *IMPOSITION OF TAX.*—

1 *ING FISH” and inserting “CERTAIN SPORT FISHING EQUIP-*
 2 *MENT”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to articles sold by the manufacturer,*
 5 *producer, or importer after September 30, 2004.*

6 **PART III—AERIAL EXCISE TAXES**

7 **SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS**
 8 **FOR AGRICULTURAL AERIAL APPLICATORS**
 9 **AND EXEMPTION FOR FIXED-WING AIRCRAFT**
 10 **ENGAGED IN FORESTRY OPERATIONS.**

11 *(a) NO WAIVER BY FARM OWNER, TENANT, OR OPER-*
 12 *ATOR NECESSARY.—Subparagraph (B) of section*
 13 *6420(c)(4) (relating to certain farming use other than by*
 14 *owner, etc.) is amended to read as follows:*

15 *“(B) if the person so using the gasoline is*
 16 *an aerial or other applicator of fertilizers or*
 17 *other substances and is the ultimate purchaser of*
 18 *the gasoline, then subparagraph (A) of this para-*
 19 *graph shall not apply and the aerial or other ap-*
 20 *plicator shall be treated as having used such gas-*
 21 *oline on a farm for farming purposes.”.*

22 *(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIR-*
 23 *FIELD AND FARM.—Section 6420(c)(4), as amended by sub-*
 24 *section (a), is amended by adding at the end the following*
 25 *new flush sentence:*

1 *“For purposes of this paragraph, in the case of an*
2 *aerial applicator, gasoline shall be treated as used on*
3 *a farm for farming purposes if the gasoline is used*
4 *for the direct flight between the airfield and 1 or more*
5 *farms.”.*

6 (c) *EXEMPTION FROM TAX ON AIR TRANSPORTATION*
7 *OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO*
8 *FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (re-*
9 *lating to tax on air transportation of persons) is amended*
10 *to read as follows:*

11 *“(f) EXEMPTION FOR CERTAIN USES.—No tax shall be*
12 *imposed under subsection (a) or (b) on air transportation—*

13 *“(1) by helicopter for the purpose of transporting*
14 *individuals, equipment, or supplies in the exploration*
15 *for, or the development or removal of, hard minerals,*
16 *oil, or gas, or*

17 *“(2) by helicopter or by fixed-wing aircraft for*
18 *the purpose of the planting, cultivation, cutting, or*
19 *transportation of, or caring for, trees (including log-*
20 *ging operations),*

21 *but only if the helicopter or fixed-wing aircraft does not*
22 *take off from, or land at, a facility eligible for assistance*
23 *under the Airport and Airway Development Act of 1970,*
24 *or otherwise use services provided pursuant to section 44509*
25 *or 44913(b) or subchapter I of chapter 471 of title 49,*

1 *United States Code, during such use. In the case of heli-*
2 *copter transportation described in paragraph (1), this sub-*
3 *section shall be applied by treating each flight segment as*
4 *a distinct flight.”.*

5 *(d) EFFECTIVE DATE.—The amendments made by this*
6 *section shall apply to fuel use or air transportation after*
7 *the date of the enactment of this Act.*

8 **SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.**

9 *(a) IN GENERAL.—Section 4261(e)(1)(B) (defining*
10 *rural airport) is amended—*

11 *(1) by inserting “(in the case of any airport de-*
12 *scribed in clause (ii)(III), on flight segments of at*
13 *least 100 miles)” after “by air” in clause (i), and*

14 *(2) by striking the period at the end of subclause*
15 *(II) of clause (ii) and inserting “, or”, and by adding*
16 *at the end of clause (ii) the following new subclause:*

17 *“(III) is not connected by paved*
18 *roads to another airport.”.*

19 *(b) EFFECTIVE DATE.—The amendments made by this*
20 *section shall take effect on April 1, 2004.*

21 **SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANS-**
22 **PORTATION PROVIDED BY SEAPLANES.**

23 *(a) IN GENERAL.—Section 4261 (relating to imposi-*
24 *tion of tax) is amended by redesignating subsection (i) as*

1 subsection (j) and by inserting after subsection (h) the fol-
2 lowing new subsection:

3 “(i) *EXEMPTION FOR SEAPLANES.*—No tax shall be
4 imposed by this section or section 4271 on any air trans-
5 portation by a seaplane with respect to any segment con-
6 sisting of a takeoff from, and a landing on, water, but only
7 if the places at which such takeoff and landing occur have
8 not received and are not receiving financial assistance from
9 the Airport and Airways Trust Fund.”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to transportation beginning after March
12 31, 2004.

13 **SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM**
14 **TAXES ON AIR TRANSPORTATION.**

15 (a) *IN GENERAL.*—Section 4281 (relating to small air-
16 craft on nonestablished lines) is amended by adding at the
17 end the following new sentence: “For purposes of this sec-
18 tion, an aircraft shall not be considered as operated on an
19 established line if such aircraft is operated on a flight the
20 sole purpose of which is sightseeing.”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply with respect to transportation beginning
23 on or after the date of the enactment of this Act, but shall
24 not apply to any amount paid before such date for such
25 transportation.

1 **PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES**

2 **SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON**

3 **PRODUCERS AND MARKETERS OF ALCOHOLIC**

4 **BEVERAGES.**

5 *(a) REPEAL OF OCCUPATIONAL TAXES.—*

6 *(1) IN GENERAL.—The following provisions of*
7 *part II of subchapter A of chapter 51 (relating to oc-*
8 *cupational taxes) are hereby repealed:*

9 *(A) Subpart A (relating to proprietors of*
10 *distilled spirits plants, bonded wine cellars, etc.).*

11 *(B) Subpart B (relating to brewer).*

12 *(C) Subpart D (relating to wholesale deal-*
13 *ers) (other than sections 5114 and 5116).*

14 *(D) Subpart E (relating to retail dealers)*
15 *(other than section 5124).*

16 *(E) Subpart G (relating to general provi-*
17 *sions) (other than sections 5142, 5143, 5145, and*
18 *5146).*

19 *(2) NONBEVERAGE DOMESTIC DRAWBACK.—Sec-*
20 *tion 5131 is amended by striking “, on payment of*
21 *a special tax per annum,”.*

22 *(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—*
23 *Section 5276 is hereby repealed.*

24 *(b) CONFORMING AMENDMENTS.—*

1 (1)(A) *The heading for part II of subchapter A*
 2 *of chapter 51 and the table of subparts for such part*
 3 *are amended to read as follows:*

4 **“PART II—MISCELLANEOUS PROVISIONS**

 “Subpart A. *Manufacturers of stills.*

 “Subpart B. *Nonbeverage domestic drawback claimants.*

 “Subpart C. *Recordkeeping by dealers.*

 “Subpart D. *Other provisions.*”.

5 (B) *The table of parts for such subchapter A is*
 6 *amended by striking the item relating to part II and*
 7 *inserting the following new item:*

 “*Part II. Miscellaneous provisions.*”.

8 (2) *Subpart C of part II of such subchapter (re-*
 9 *lating to manufacturers of stills) is redesignated as*
 10 *subpart A.*

11 (3)(A) *Subpart F of such part II (relating to*
 12 *nonbeverage domestic drawback claimants) is redesign-*
 13 *ated as subpart B and sections 5131 through 5134*
 14 *are redesignated as sections 5111 through 5114, re-*
 15 *spectively.*

16 (B) *The table of sections for such subpart B, as*
 17 *so redesignated, is amended—*

18 (i) *by redesignating the items relating to*
 19 *sections 5131 through 5134 as relating to sec-*
 20 *tions 5111 through 5114, respectively, and*

21 (ii) *by striking “and rate of tax” in the*
 22 *item relating to section 5111, as so redesignated.*

1 (C) Section 5111, as redesignated by subpara-
2 graph (A), is amended—

3 (i) by striking “**AND RATE OF TAX**” in
4 the section heading,

5 (ii) by striking the subsection heading for
6 subsection (a), and

7 (iii) by striking subsection (b).

8 (4) Part II of subchapter A of chapter 51 is
9 amended by adding after subpart B, as redesignated
10 by paragraph (3), the following new subpart:

11 **“Subpart C—Recordkeeping by Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of premises for in-
spection.”.

12 (5)(A) Section 5114 (relating to records) is
13 moved to subpart C of such part II and inserted after
14 the table of sections for such subpart.

15 (B) Section 5114 is amended—

16 (i) by striking the section heading and in-
17 serting the following new heading:

18 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

19 *and*

20 (ii) by redesignating subsection (c) as sub-
21 section (d) and by inserting after subsection (b)
22 the following new subsection:

1 “(c) *WHOLESALE DEALERS.*—*For purposes of this*
2 *part—*

3 “(1) *WHOLESALE DEALER IN LIQUORS.*—*The*
4 *term ‘wholesale dealer in liquors’ means any dealer*
5 *(other than a wholesale dealer in beer) who sells, or*
6 *offers for sale, distilled spirits, wines, or beer, to an-*
7 *other dealer.*

8 “(2) *WHOLESALE DEALER IN BEER.*—*The term*
9 *‘wholesale dealer in beer’ means any dealer who sells,*
10 *or offers for sale, beer, but not distilled spirits or*
11 *wines, to another dealer.*

12 “(3) *DEALER.*—*The term ‘dealer’ means any*
13 *person who sells, or offers for sale, any distilled spir-*
14 *its, wines, or beer.*

15 “(4) *PRESUMPTION IN CASE OF SALE OF 20 WINE*
16 *GALLONS OR MORE.*—*The sale, or offer for sale, of dis-*
17 *tilled spirits, wines, or beer, in quantities of 20 wine*
18 *gallons or more to the same person at the same time,*
19 *shall be presumptive evidence that the person making*
20 *such sale, or offer for sale, is engaged in or carrying*
21 *on the business of a wholesale dealer in liquors or a*
22 *wholesale dealer in beer, as the case may be. Such*
23 *presumption may be overcome by evidence satisfac-*
24 *torily showing that such sale, or offer for sale, was*
25 *made to a person other than a dealer.”.*

1 (C) Paragraph (3) of section 5121(d), as so re-
 2 designated, is amended by striking “section 5146”
 3 and inserting “section 5123”.

4 (6)(A) Section 5124 (relating to records) is
 5 moved to subpart C of part II of subchapter A of
 6 chapter 51 and inserted after section 5121.

7 (B) Section 5124 is amended—

8 (i) by striking the section heading and in-
 9 serting the following new heading:

10 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

11 (ii) by striking “section 5146” in subsection
 12 (c) and inserting “section 5123”, and

13 (iii) by redesignating subsection (c) as sub-
 14 section (d) and inserting after subsection (b) the
 15 following new subsection:

16 “(c) *RETAIL DEALERS.*—For purposes of this sec-
 17 tion—

18 “(1) *RETAIL DEALER IN LIQUORS.*—The term
 19 ‘retail dealer in liquors’ means any dealer (other than
 20 a retail dealer in beer or a limited retail dealer) who
 21 sells, or offers for sale, distilled spirits, wines, or beer,
 22 to any person other than a dealer.

23 “(2) *RETAIL DEALER IN BEER.*—The term ‘retail
 24 dealer in beer’ means any dealer (other than a lim-
 25 ited retail dealer) who sells, or offers for sale, beer, but

1 *not distilled spirits or wines, to any person other*
2 *than a dealer.*

3 “(3) *LIMITED RETAIL DEALER.*—*The term ‘lim-*
4 *ited retail dealer’ means any fraternal, civic, church,*
5 *labor, charitable, benevolent, or ex-servicemen’s orga-*
6 *nization making sales of distilled spirits, wine or beer*
7 *on the occasion of any kind of entertainment, dance,*
8 *picnic, bazaar, or festival held by it, or any person*
9 *making sales of distilled spirits, wine or beer to the*
10 *members, guests, or patrons of bona fide fairs, re-*
11 *unions, picnics, carnivals, or other similar outings, if*
12 *such organization or person is not otherwise engaged*
13 *in business as a dealer.*

14 “(4) *DEALER.*—*The term ‘dealer’ has the mean-*
15 *ing given such term by section 5121(c)(3).”.*

16 (7) *Section 5146 is moved to subpart C of part*
17 *II of subchapter A of chapter 51, inserted after section*
18 *5122, and redesignated as section 5123.*

19 (8) *Part II of subchapter A of chapter 51 is*
20 *amended by inserting after subpart C the following*
21 *new subpart:*

22 **“Subpart D—Other Provisions**

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”.

23 (9) *Section 5116 is moved to subpart D of part*
24 *II of subchapter A of chapter 51, inserted after the*

1 *table of sections, redesignated as section 5131, and*
2 *amended by inserting “(as defined in section*
3 *5121(c))” after “dealer” in subsection (a).*

4 (10) *Subpart D of part II of subchapter A of*
5 *chapter 51 is amended by adding at the end thereof*
6 *the following new section:*

7 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

8 “(a) *IN GENERAL.—Except as provided in regulations*
9 *prescribed by the Secretary, it shall be unlawful for a dealer*
10 *to purchase distilled spirits for resale from any person other*
11 *than a wholesale dealer in liquors who is required to keep*
12 *the records prescribed by section 5121.*

13 “(b) *LIMITED RETAIL DEALERS.—A limited retail*
14 *dealer may lawfully purchase distilled spirits for resale*
15 *from a retail dealer in liquors.*

16 “(c) *PENALTY AND FORFEITURE.—*

**“For penalty and forfeiture provisions applicable
to violations of subsection (a), see sections 5687 and
7302.”.**

17 (11) *Subsection (b) of section 5002 is amended—*

18 (A) *by striking “section 5112(a)” and in-*
19 *serting “section 5121(c)(3)”,*

20 (B) *by striking “section 5112” and insert-*
21 *ing “section 5121(c)”,*

22 (C) *by striking “section 5122” and insert-*
23 *ing “section 5122(c)”.*

1 (12) Subparagraph (A) of section 5010(c)(2) is
2 amended by striking “section 5134” and inserting
3 “section 5114”.

4 (13) Subsection (d) of section 5052 is amended
5 to read as follows:

6 “(d) BREWER.—For purposes of this chapter, the term
7 ‘brewer’ means any person who brews beer or produces beer
8 for sale. Such term shall not include any person who pro-
9 duces only beer exempt from tax under section 5053(e).”.

10 (14) The text of section 5182 is amended to read
11 as follows:

12 “For provisions requiring recordkeeping by
13 wholesale liquor dealers, see section 5121, and by re-
14 tail liquor dealers, see section 5122.”.

15 (15) Subsection (b) of section 5402 is amended
16 by striking “section 5092” and inserting “section
17 5052(d)”.

18 (16) Section 5671 is amended by striking “or
19 5091”.

20 (17)(A) Part V of subchapter J of chapter 51 is
21 hereby repealed.

22 (B) The table of parts for such subchapter J is
23 amended by striking the item relating to part V.

24 (18)(A) Sections 5142, 5143, and 5145 are
25 moved to subchapter D of chapter 52, inserted after

1 *section 5731, redesignated as sections 5732, 5733, and*
2 *5734, respectively, and amended by striking “this*
3 *part” each place it appears and inserting “this sub-*
4 *chapter”.*

5 *(B) Section 5732, as redesignated by subpara-*
6 *graph (A), is amended by striking “(except the tax*
7 *imposed by section 5131)” each place it appears.*

8 *(C) Paragraph (2) of section 5733(c), as redesign-*
9 *ated by subparagraph (A), is amended by striking*
10 *“liquors” both places it appears and inserting “to-*
11 *bacco products and cigarette papers and tubes”.*

12 *(D) The table of sections for subchapter D of*
13 *chapter 52 is amended by adding at the end thereof*
14 *the following:*

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”.

15 *(E) Section 5731 is amended by striking sub-*
16 *section (c) and by redesignating subsection (d) as sub-*
17 *section (c).*

18 *(19) Subsection (c) of section 6071 is amended*
19 *by striking “section 5142” and inserting “section*
20 *5732”.*

21 *(20) Paragraph (1) of section 7652(g) is amend-*
22 *ed—*

23 *(A) by striking “subpart F” and inserting*
24 *“subpart B”, and*

1 (B) by striking “section 5131(a)” and in-
2 serting “section 5111”.

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall take effect on July 1, 2004, but shall not apply*
5 *to taxes imposed for periods before such date.*

6 **SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM**
7 **EXCISE TAX COVER OVER TO PUERTO RICO**
8 **AND VIRGIN ISLANDS.**

9 (a) *IN GENERAL.*—*Section 7652(f)(1) (relating to lim-*
10 *itation on cover over of tax on distilled spirits) is amended*
11 *by striking “January 1, 2004” and inserting “October 1,*
12 *2004, and \$13.50 in the case of distilled spirits brought into*
13 *the United States after September 30, 2004, and before Jan-*
14 *uary 1, 2006”.*

15 (b) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—*The amendment made by sub-*
17 *section (a) shall apply to articles containing distilled*
18 *spirits brought into the United States after December*
19 *31, 2003.*

20 (2) *SPECIAL RULE.*—

21 (A) *IN GENERAL.*—*After September 30,*
22 *2004, the treasury of Puerto Rico shall make a*
23 *Conservation Trust Fund transfer within 30*
24 *days from the date of each cover over payment*

1 to such treasury under section 7652(e) of the In-
2 ternal Revenue Code of 1986.

3 (B) CONSERVATION TRUST FUND TRANS-
4 FER.—

5 (i) *IN GENERAL.*—For purposes of this
6 paragraph, the term “Conservation Trust
7 Fund transfer” means a transfer to the
8 Puerto Rico Conservation Trust Fund of an
9 amount equal to 50 cents per proof gallon
10 of the taxes imposed under section 5001 or
11 section 7652 of such Code on distilled spir-
12 its that are covered over to the treasury of
13 Puerto Rico under section 7652(e) of such
14 Code.

15 (ii) *TREATMENT OF TRANSFER.*—Each
16 Conservation Trust Fund transfer shall be
17 treated as principal for an endowment, the
18 income from which to be available for use
19 by the Puerto Rico Conservation Trust
20 Fund for the purposes for which the Trust
21 Fund was established.

22 (iii) *RESULT OF NONTRANSFER.*—

23 (I) *IN GENERAL.*—Upon notifica-
24 tion by the Secretary of the Interior
25 that a Conservation Trust Fund trans-

1 *fer has not been made by the treasury*
2 *of Puerto Rico, the Secretary of the*
3 *Treasury shall, except as provided in*
4 *subclause (II), deduct and withhold*
5 *from the next cover over payment to be*
6 *made to the treasury of Puerto Rico*
7 *under section 7652(e) of such Code an*
8 *amount equal to the appropriate Con-*
9 *servation Trust Fund transfer and in-*
10 *terest thereon at the underpayment*
11 *rate established under section 6621 of*
12 *such Code as of the due date of such*
13 *transfer. The Secretary of the Treasury*
14 *shall transfer such amount deducted*
15 *and withheld, and the interest thereon,*
16 *directly to the Puerto Rico Conserva-*
17 *tion Trust Fund.*

18 *(II) GOOD CAUSE EXCEPTION.—If*
19 *the Secretary of the Interior finds,*
20 *after consultation with the Governor of*
21 *Puerto Rico, that the failure by the*
22 *treasury of Puerto Rico to make a re-*
23 *quired transfer was for good cause, and*
24 *notifies the Secretary of the Treasury*
25 *of the finding of such good cause before*

1 *the due date of the next cover over pay-*
 2 *ment following the notification of non-*
 3 *transfer, then the Secretary of the*
 4 *Treasury shall not deduct the amount*
 5 *of such nontransfer from any cover*
 6 *over payment.*

7 (C) *PUERTO RICO CONSERVATION TRUST*
 8 *FUND.—For purposes of this paragraph, the term*
 9 *“Puerto Rico Conservation Trust Fund” means*
 10 *the fund established pursuant to a Memorandum*
 11 *of Understanding between the United States De-*
 12 *partment of the Interior and the Commonwealth*
 13 *of Puerto Rico, dated December 24, 1968.*

14 ***PART V—SPORT EXCISE TAXES***

15 ***SEC. 5441. CUSTOM GUNSMITHS.***

16 (a) *SMALL MANUFACTURERS EXEMPT FROM FIRE-*
 17 *ARMS EXCISE TAX.—Section 4182 (relating to exemptions)*
 18 *is amended by redesignating subsection (c) as subsection (d)*
 19 *and by inserting after subsection (b) the following new sub-*
 20 *section:*

21 “(c) *SMALL MANUFACTURERS, ETC.—*

22 “(1) *IN GENERAL.—The tax imposed by section*
 23 *4181 shall not apply to any article described in such*
 24 *section if manufactured, produced, or imported by a*

1 *person who manufactures, produces, and imports less*
2 *than 50 of such articles during the calendar year.*

3 “(2) *CONTROLLED GROUPS.*—*All persons treated*
4 *as a single employer for purposes of subsection (a) or*
5 *(b) of section 52 shall be treated as one person for*
6 *purposes of paragraph (1).”.*

7 *(b) EFFECTIVE DATE.*—

8 (1) *IN GENERAL.*—*The amendments made by*
9 *this section shall apply to articles sold by the manu-*
10 *facturer, producer, or importer on or after the date*
11 *which is the first day of the month beginning at least*
12 *2 weeks after the date of the enactment of this Act.*

13 (2) *NO INFERENCE.*—*Nothing in the amend-*
14 *ments made by this section shall be construed to cre-*
15 *ate any inference with respect to the proper tax treat-*
16 *ment of any sales before the effective date of such*
17 *amendments.*

18 **SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY**

19 **PRODUCTS.**

20 (a) *BOWS.*—*Paragraph (1) of section 4161(b) (relating*
21 *to bows) is amended to read as follows:*

22 “(1) *BOWS.*—

23 “(A) *IN GENERAL.*—*There is hereby im-*
24 *posed on the sale by the manufacturer, producer,*
25 *or importer of any bow which has a peak draw*

1 *weight of 30 pounds or more, a tax equal to 11*
2 *percent of the price for which so sold.*

3 “(B) *ARCHERY EQUIPMENT.*—*There is here-*
4 *by imposed on the sale by the manufacturer, pro-*
5 *ducer, or importer—*

6 *“(i) of any part or accessory suitable*
7 *for inclusion in or attachment to a bow de-*
8 *scribed in subparagraph (A), and*

9 *“(ii) of any quiver or broadhead suit-*
10 *able for use with an arrow described in*
11 *paragraph (2),*

12 *a tax equal to 11 percent of the price for which*
13 *so sold.”.*

14 (b) *ARROWS.*—*Subsection (b) of section 4161 (relating*
15 *to bows and arrows, etc.) is amended by redesignating para-*
16 *graph (3) as paragraph (4) and inserting after paragraph*
17 *(2) the following:*

18 “(3) *ARROWS.*—

19 “(A) *IN GENERAL.*—*There is hereby im-*
20 *posed on the sale by the manufacturer, producer,*
21 *or importer of any arrow, a tax equal to 12 per-*
22 *cent of the price for which so sold.*

23 “(B) *EXCEPTION.*—*In the case of any arrow*
24 *of which the shaft or any other component has*

1 *been previously taxed under paragraph (1) or*
2 *(2)—*

3 *“(i) section 6416(b)(3) shall not apply,*
4 *and*

5 *“(ii) the tax imposed by subparagraph*
6 *(A) shall be an amount equal to the excess*
7 *(if any) of—*

8 *“(I) the amount of tax imposed by*
9 *this paragraph (determined without re-*
10 *gard to this subparagraph), over*

11 *“(II) the amount of tax paid with*
12 *respect to the tax imposed under para-*
13 *graph (1) or (2) on such shaft or com-*
14 *ponent.*

15 *“(C) ARROW.—For purposes of this para-*
16 *graph, the term ‘arrow’ means any shaft de-*
17 *scribed in paragraph (2) to which additional*
18 *components are attached.”.*

19 *(c) CONFORMING AMENDMENTS.—Section 4161(b)(2)*
20 *is amended—*

21 *(1) by inserting “(other than broadheads)” after*
22 *“point”, and*

23 *(2) by striking “ARROWS.—” in the heading and*
24 *inserting “ARROW COMPONENTS.—”.*

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to articles sold by the manufacturer,*
3 *producer, or importer after the date of the enactment of this*
4 *Act.*

5 **SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR**
6 **PURPOSES OF FEDERAL WAGERING EXCISE**
7 **AND OCCUPATIONAL TAXES.**

8 (a) *IN GENERAL.*—*Subsection (a) of section 7871 (re-*
9 *lating to Indian tribal governments treated as States for*
10 *certain purposes) is amended by striking “and” at the end*
11 *of paragraph (6), by striking the period at the end of para-*
12 *graph (7) and inserting “; and”, and by adding at the end*
13 *the following new paragraph:*

14 “(8) *for purposes of chapter 35 (relating to taxes*
15 *on wagering).”.*

16 (b) *EFFECTIVE DATE.*—*The amendments made by this*
17 *section shall take effect on July 1, 2004, but shall not apply*
18 *to taxes imposed for periods before such date.*

1 **PART VI—OTHER PROVISIONS**

2 **SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS**
3 **WHOLESALEERS AND FOR DISTILLED SPIRITS**
4 **IN CONTROL STATE BAILMENT WAREHOUSES**
5 **FOR COSTS OF CARRYING FEDERAL EXCISE**
6 **TAXES ON BOTTLED DISTILLED SPIRITS.**

7 (a) *IN GENERAL.*—Subpart A of part I of subchapter
8 *A* of chapter 51 (relating to gallonage and occupational
9 taxes) is amended by adding at the end the following new
10 section:

11 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
12 **CARRYING EXCISE TAX.**

13 “(a) *IN GENERAL.*—For purposes of section 38, the
14 amount of the distilled spirits credit for any taxable year
15 is the amount equal to the product of—

16 “(1) in the case of—

17 “(A) any eligible wholesaler—

18 “(i) the number of cases of bottled dis-
19 tilled spirits—

20 “(I) which were bottled in the
21 United States, and

22 “(II) which are purchased by such
23 wholesaler during the taxable year di-
24 rectly from the bottler of such spirits,
25 or

1 “(B) any person which is subject to section
2 5005 and which is not an eligible wholesaler, the
3 number of cases of bottled distilled spirits which
4 are stored in a warehouse operated by, or on be-
5 half of, a State, or agency or political subdivi-
6 sion thereof, on which title has not passed on an
7 unconditional sale basis, and

8 “(2) the average tax-financing cost per case for
9 the most recent calendar year ending before the begin-
10 ning of such taxable year.

11 “(b) *ELIGIBLE WHOLESALER.*—For purposes of this
12 section, the term ‘eligible wholesaler’ means any person
13 which holds a permit under the Federal Alcohol Adminis-
14 tration Act as a wholesaler of distilled spirits which is not
15 a State, or agency or political subdivision thereof.

16 “(c) *AVERAGE TAX-FINANCING COST.*—

17 “(1) *IN GENERAL.*—For purposes of this section,
18 the average tax-financing cost per case for any cal-
19 endar year is the amount of interest which would ac-
20 cruce at the deemed financing rate during a 60-day
21 period on an amount equal to the deemed Federal ex-
22 cise tax per case.

23 “(2) *DEEMED FINANCING RATE.*—For purposes
24 of paragraph (1), the deemed financing rate for any
25 calendar year is the average of the corporate overpay-

1 *ment rates under paragraph (1) of section 6621(a)*
2 *(determined without regard to the last sentence of*
3 *such paragraph) for calendar quarters of such year.*

4 “(3) *DEEMED FEDERAL EXCISE TAX PER*
5 *CASE.—For purposes of paragraph (1), the deemed*
6 *Federal excise tax per case is \$25.68.*

7 “(d) *OTHER DEFINITIONS AND SPECIAL RULES.—For*
8 *purposes of this section—*

9 “(1) *CASE.—The term ‘case’ means 12 80-proof*
10 *750 milliliter bottles.*

11 “(2) *NUMBER OF CASES IN LOT.—The number of*
12 *cases in any lot of distilled spirits shall be determined*
13 *by dividing the number of liters in such lot by 9.”.*

14 (b) *CREDIT TREATED AS PART OF GENERAL BUSI-*
15 *NESS CREDIT.—Section 38(b) (relating to current year*
16 *business credit), as amended by section 5103 of this Act,*
17 *is amended by striking “plus” at the end of paragraph (15),*
18 *by striking the period at the end of paragraph (16) and*
19 *inserting “, plus”, and by adding at the end the following*
20 *new paragraph:*

21 “(17) *the distilled spirits credit determined*
22 *under section 5011(a).”.*

23 (c) *CONFORMING AMENDMENTS.—*

1 (1) *Section 39(d), as amended by section 5103 of*
 2 *this Act, is amended by adding at the end the fol-*
 3 *lowing new paragraph:*

4 “(12) *NO CARRYBACK OF SECTION 5011 CREDIT*
 5 *BEFORE EFFECTIVE DATE.—No portion of the unused*
 6 *business credit for any taxable year which is attrib-*
 7 *utable to the credit determined under section 5011(a)*
 8 *may be carried back to a taxable year beginning be-*
 9 *fore the date of the enactment of section 5011.”.*

10 (2) *The table of sections for subpart A of part I*
 11 *of subchapter A of chapter 51 is amended by adding*
 12 *at the end the following new item:*

 “*Sec. 5011. Income tax credit for average cost of carrying excise tax.*”.

13 (d) *EFFECTIVE DATE.—The amendments made by this*
 14 *section shall apply to taxable years beginning after the date*
 15 *of the enactment of this Act.*

16 **SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL**
 17 **POWER TAKEOFF VEHICLES.**

18 (a) *IN GENERAL.—Subpart D of part IV of subchapter*
 19 *A of chapter 1 (relating to business-related credits) is*
 20 *amended by adding at the end the following new section:*

21 **“SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CRED-**
 22 **IT.**

23 “(a) *GENERAL RULE.—For purposes of section 38, the*
 24 *amount of the commercial power takeoff vehicles credit de-*
 25 *termined under this section for the taxable year is \$250 for*

1 *each qualified commercial power takeoff vehicle owned by*
2 *the taxpayer as of the close of the calendar year in which*
3 *or with which the taxable year of the taxpayer ends.*

4 “(b) *DEFINITIONS.—For purposes of this section—*

5 “(1) *QUALIFIED COMMERCIAL POWER TAKEOFF*
6 *VEHICLE.—The term ‘qualified commercial power*
7 *takeoff vehicle’ means any highway vehicle described*
8 *in paragraph (2) which is propelled by any fuel sub-*
9 *ject to tax under section 4041 or 4081 if such vehicle*
10 *is used in a trade or business or for the production*
11 *of income (and is licensed and insured for such use).*

12 “(2) *HIGHWAY VEHICLE DESCRIBED.—A high-*
13 *way vehicle is described in this paragraph if such ve-*
14 *hicle is—*

15 “(A) *designed to engage in the daily collec-*
16 *tion of refuse or recyclables from homes or busi-*
17 *nesses and is equipped with a mechanism under*
18 *which the vehicle’s propulsion engine provides*
19 *the power to operate a load compactor, or*

20 “(B) *designed to deliver ready mixed con-*
21 *crete on a daily basis and is equipped with a*
22 *mechanism under which the vehicle’s propulsion*
23 *engine provides the power to operate a mixer*
24 *drum to agitate and mix the product en route to*
25 *the delivery site.*

1 “(c) *EXCEPTION FOR VEHICLES USED BY GOVERN-*
2 *MENTS, ETC.*—No credit shall be allowed under this section
3 *for any vehicle owned by any person at the close of a cal-*
4 *endar year if such vehicle is used at any time during such*
5 *year by—*

6 “(1) *the United States or an agency or instru-*
7 *mentality thereof, a State, a political subdivision of*
8 *a State, or an agency or instrumentality of one or*
9 *more States or political subdivisions, or*

10 “(2) *an organization exempt from tax under sec-*
11 *tion 501(a).*

12 “(d) *TERMINATION.*—*This section shall not apply with*
13 *respect to any calendar year after 2006.”.*

14 “(b) *CREDIT TREATED AS PART OF GENERAL BUSI-*
15 *NESS CREDIT.*—*Section 38(b) (relating to current year*
16 *business credit), as amended by section 5451 of this Act,*
17 *is amended by striking “plus” at the end of paragraph (16),*
18 *by striking the period at the end of paragraph (17) and*
19 *inserting “, plus”, and by adding at the end the following*
20 *new paragraph:*

21 “(18) *the commercial power takeoff vehicles cred-*
22 *it under section 45G(a).”.*

23 “(c) *CONFORMING AMENDMENTS.*—

1 (1) *Section 39(d), as amended by section 5451 of*
2 *this Act, is amended by adding at the end the fol-*
3 *lowing new paragraph:*

4 “(13) *NO CARRYBACK OF SECTION 45G CREDIT*
5 *BEFORE EFFECTIVE DATE.—No portion of the unused*
6 *business credit for any taxable year which is attrib-*
7 *utable to the credit determined under section 45G(a)*
8 *may be carried back to a taxable year beginning on*
9 *or before the date of the enactment of section 45G.”.*

10 (2) *The table of sections for subpart D of part*
11 *IV of subchapter A of chapter 1 is amended by adding*
12 *at the end the following new item:*

“Sec. 45G. Commercial power takeoff vehicles credit.”.

13 (d) *EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to taxable years beginning after the date*
15 *of the enactment of this Act.*

16 **SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS IN-**
17 **STALLED ON DIESEL-POWERED TRUCKS.**

18 (a) *IN GENERAL.—Subpart D of part IV of subchapter*
19 *A of chapter 1 (relating to business-related credits), as*
20 *amended by section 5452 of this Act, is amended by adding*
21 *at the end the following new section:*

22 **“SEC. 45H. AUXILIARY POWER UNIT CREDIT.**

23 “(a) *GENERAL RULE.—For purposes of section 38, the*
24 *amount of the auxiliary power unit credit determined*

1 *under this section for the taxable year is \$250 for each*
2 *qualified auxiliary power unit—*

3 *“(1) purchased by the taxpayer, and*

4 *“(2) installed or caused to be installed by the*
5 *taxpayer on a qualified heavy-duty highway vehicle*
6 *during such taxable year.*

7 *“(b) DEFINITIONS.—For purposes of this section—*

8 *“(1) QUALIFIED AUXILIARY POWER UNIT.—The*
9 *term ‘qualified auxiliary power unit’ means any inte-*
10 *grated system which—*

11 *“(A) provides heat, air conditioning, engine*
12 *warming, and electricity to the factory installed*
13 *components on a qualified heavy-duty highway*
14 *vehicle as if the main drive engine of such vehi-*
15 *cle was in operation,*

16 *“(B) is employed to reduce long-term idling*
17 *of the diesel engine on such a vehicle, and*

18 *“(C) is certified by the Environmental Pro-*
19 *tection Agency as meeting emission standards in*
20 *regulations in effect on the date of the enactment*
21 *of this section.*

22 *“(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHI-*
23 *CLE.—The term ‘qualified heavy-duty highway vehi-*
24 *cle’ means any highway vehicle weighing more than*
25 *12,500 pounds and powered by a diesel engine.*

1 “(c) *TERMINATION.*—*This section shall not apply with*
2 *respect to any installation occurring after December 31,*
3 *2006.*”.

4 (b) *CREDIT TREATED AS PART OF GENERAL BUSI-*
5 *NESS CREDIT.*—*Section 38(b) (relating to current year*
6 *business credit), as amended by section 5452 of this Act,*
7 *is amended by striking “plus” at the end of paragraph (17),*
8 *by striking the period at the end of paragraph (18) and*
9 *inserting “, plus”, and by adding at the end the following*
10 *new paragraph:*

11 “(19) *the auxiliary power unit credit under sec-*
12 *tion 45H(a).*”.

13 (c) *CONFORMING AMENDMENTS.*—

14 (1) *Section 39(d), as amended by section 5452 of*
15 *this Act, is amended by adding at the end the fol-*
16 *lowing new paragraph:*

17 “(14) *NO CARRYBACK OF SECTION 45H CREDIT*
18 *BEFORE EFFECTIVE DATE.*—*No portion of the unused*
19 *business credit for any taxable year which is attrib-*
20 *utable to the credit determined under section 45H(a)*
21 *may be carried back to a taxable year beginning on*
22 *or before the date of the enactment of section 45H.*”.

23 (2) *The table of sections for subpart D of part*
24 *IV of subchapter A of chapter 1, as amended by sec-*

1 *tion 5452 of this Act, is amended by adding at the*
 2 *end the following new item:*

 “*Sec. 45H. Auxiliary power unit credit.*”.

3 *(d) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to auxiliary power units purchased and*
 5 *installed for taxable years beginning after the date of the*
 6 *enactment of this Act.*

7 ***Subtitle F—Miscellaneous***
 8 ***Provisions***

9 ***SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY***
 10 ***COMMISSION.***

11 *(a) ESTABLISHMENT.—There is established a Motor*
 12 *Fuel Tax Enforcement Advisory Commission (in this sec-*
 13 *tion referred to as the “Commission”).*

14 *(b) FUNCTION.—The Commission shall—*

15 *(1) review motor fuel revenue collections, histor-*
 16 *ical and current;*

17 *(2) review the progress of investigations;*

18 *(3) develop and review legislative proposals with*
 19 *respect to motor fuel taxes;*

20 *(4) monitor the progress of administrative regu-*
 21 *lation projects relating to motor fuel taxes;*

22 *(5) review the results of Federal and State agen-*
 23 *cy cooperative efforts regarding motor fuel taxes;*

24 *(6) review the results of Federal interagency co-*
 25 *operative efforts regarding motor fuel taxes; and*

1 (7) *evaluate and make recommendations regard-*
2 *ing—*

3 (A) *the effectiveness of existing Federal en-*
4 *forcement programs regarding motor fuel taxes,*

5 (B) *enforcement personnel allocation, and*

6 (C) *proposals for regulatory projects, legis-*
7 *lation, and funding.*

8 (c) *MEMBERSHIP.—*

9 (1) *APPOINTMENT.—The Commission shall be*
10 *composed of the following representatives appointed*
11 *by the Chairmen and the Ranking Members of the*
12 *Committee on Finance of the Senate and the Com-*
13 *mittee on Ways and Means of the House of Represent-*
14 *atives:*

15 (A) *At least 1 representative from each of*
16 *the following Federal entities: the Department of*
17 *Homeland Security, the Department of Trans-*
18 *portation—Office of Inspector General, the Fed-*
19 *eral Highway Administration, the Department*
20 *of Defense, and the Department of Justice.*

21 (B) *At least 1 representative from the Fed-*
22 *eration of State Tax Administrators.*

23 (C) *At least 1 representative from any State*
24 *department of transportation.*

1 (D) 2 representatives from the highway con-
2 struction industry.

3 (E) 5 representatives from industries relat-
4 ing to fuel distribution — refiners (2 representa-
5 tives), distributors (1 representative), pipelines
6 (1 representative), and terminal operators (2
7 representatives).

8 (F) 1 representative from the retail fuel in-
9 dustry.

10 (G) 2 representatives from the staff of the
11 Committee on Finance of the Senate and 2 rep-
12 resentatives from the staff of the Committee on
13 Ways and Means of the House of Representa-
14 tives.

15 (2) *TERMS.*—Members shall be appointed for the
16 life of the Commission.

17 (3) *VACANCIES.*—A vacancy in the Commission
18 shall be filled in the manner in which the original
19 appointment was made.

20 (4) *TRAVEL EXPENSES.*—Members shall serve
21 without pay but shall receive travel expenses, includ-
22 ing per diem in lieu of subsistence, in accordance
23 with sections 5702 and 5703 of title 5, United States
24 Code.

1 (5) *CHAIRMAN.*—*The Chairman of the Commis-*
2 *sion shall be elected by the members.*

3 (d) *FUNDING.*—*Such sums as are necessary shall be*
4 *available from the Highway Trust fund for the expenses of*
5 *the Commission.*

6 (e) *CONSULTATION.*—*Upon request of the Commission,*
7 *representatives of the Department of the Treasury and the*
8 *Internal Revenue Service shall be available for consultation*
9 *to assist the Commission in carrying out its duties under*
10 *this section.*

11 (f) *OBTAINING DATA.*—*The Commission may secure*
12 *directly from any department or agency of the United*
13 *States, information (other than information required by*
14 *any law to be kept confidential by such department or agen-*
15 *cy) necessary for the Commission to carry out its duties*
16 *under this section. Upon request of the Commission, the*
17 *head of that department or agency shall furnish such non-*
18 *confidential information to the Commission. The Commis-*
19 *sion shall also gather evidence through such means as it*
20 *may deem appropriate, including through holding hearings*
21 *and soliciting comments by means of Federal Register no-*
22 *tices.*

23 (g) *TERMINATION.*—*The Commission shall terminate*
24 *after September 30, 2009.*

1 **SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRA-**
2 **STRUCTURE FINANCING COMMISSION.**

3 (a) *ESTABLISHMENT.*—*There is established a National*
4 *Surface Transportation Infrastructure Financing Commis-*
5 *sion (in this section referred to as the “Commission”). The*
6 *Commission shall hold its first meeting within 90 days of*
7 *the appointment of the eighth individual to be named to*
8 *the Commission.*

9 (b) *FUNCTION.*—

10 (1) *IN GENERAL.*—*The Commission shall—*

11 (A) *make a thorough investigation and*
12 *study of revenues flowing into the Highway*
13 *Trust Fund under current law, including the in-*
14 *dividual components of the overall flow of such*
15 *revenues;*

16 (B) *consider whether the amount of such*
17 *revenues is likely to increase, decline, or remain*
18 *unchanged, absent changes in the law, particu-*
19 *larly by taking into account the impact of pos-*
20 *sible changes in public vehicular choice, fuel use,*
21 *or travel alternatives that could be expected to*
22 *reduce or increase revenues into the Highway*
23 *Trust Fund;*

24 (C) *consider alternative approaches to gen-*
25 *erating revenues for the Highway Trust Fund,*

1 *and the level of revenues that such alternatives*
2 *would yield;*

3 *(D) consider highway and transit needs and*
4 *whether additional revenues into the Highway*
5 *Trust Fund, or other Federal revenues dedicated*
6 *to highway and transit infrastructure, would be*
7 *required in order to meet such needs; and*

8 *(E) study such other matters closely related*
9 *to the subjects described in the preceding sub-*
10 *paragraphs as it may deem appropriate.*

11 (2) *TIME FRAME OF INVESTIGATION AND*
12 *STUDY.—The time frame to be considered by the Com-*
13 *mission shall extend through the year 2015.*

14 (3) *PREPARATION OF REPORT.—Based on such*
15 *investigation and study, the Commission shall develop*
16 *a final report, with recommendations and the bases*
17 *for those recommendations, indicating policies that*
18 *should be adopted, or not adopted, to achieve various*
19 *levels of annual revenue for the Highway Trust Fund*
20 *and to enable the Highway Trust Fund to receive rev-*
21 *enues sufficient to meet highway and transit needs.*
22 *Such recommendations shall address, among other*
23 *matters as the Commission may deem appropriate—*

1 (A) *what levels of revenue are required by*
2 *the Federal Highway Trust Fund in order for it*
3 *to meet needs to—*

4 (i) *maintain, and*

5 (ii) *improve the condition and per-*
6 *formance of the Nation's highway and tran-*
7 *sit systems;*

8 (B) *what levels of revenue are required by*
9 *the Federal Highway Trust Fund in order to en-*
10 *sure that Federal levels of investment in high-*
11 *ways and transit do not decline in real terms;*
12 *and*

13 (C) *the extent, if any, to which the High-*
14 *way Trust Fund should be augmented by other*
15 *mechanisms or funds as a Federal means of fi-*
16 *nancing highway and transit infrastructure in-*
17 *vestments.*

18 (c) *MEMBERSHIP.—*

19 (1) *APPOINTMENT.—The Commission shall be*
20 *composed of 15 members, appointed as follows:*

21 (A) *7 members appointed by the Secretary*
22 *of Transportation, in consultation with the Sec-*
23 *retary of the Treasury.*

1 (B) 2 members appointed by the Chairman
2 of the Committee on Ways and Means of the
3 House of Representatives.

4 (C) 2 members appointed by the Ranking
5 Minority Member of the Committee on Ways and
6 Means of the House of Representatives.

7 (D) 2 members appointed by the Chairman
8 of the Committee on Finance of the Senate.

9 (E) 2 members appointed by the Ranking
10 Minority Member of the Committee on Finance
11 of the Senate.

12 (2) *QUALIFICATIONS.*—Members appointed pur-
13 suant to paragraph (1) shall be appointed from
14 among individuals knowledgeable in the fields of pub-
15 lic transportation finance or highway and transit
16 programs, policy, and needs, and may include rep-
17 resentatives of interested parties, such as State and
18 local governments or other public transportation au-
19 thorities or agencies, representatives of the transpor-
20 tation construction industry (including suppliers of
21 technology, machinery and materials), transportation
22 labor (including construction and providers), trans-
23 portation providers, the financial community, and
24 users of highway and transit systems.

1 (3) *TERMS.*—*Members shall be appointed for the*
2 *life of the Commission.*

3 (4) *VACANCIES.*—*A vacancy in the Commission*
4 *shall be filled in the manner in which the original*
5 *appointment was made.*

6 (5) *TRAVEL EXPENSES.*—*Members shall serve*
7 *without pay but shall receive travel expenses, includ-*
8 *ing per diem in lieu of subsistence, in accordance*
9 *with sections 5702 and 5703 of title 5, United States*
10 *Code.*

11 (6) *CHAIRMAN.*—*The Chairman of the Commis-*
12 *sion shall be elected by the members.*

13 (d) *STAFF.*—*The Commission may appoint and fix the*
14 *pay of such personnel as it considers appropriate.*

15 (e) *FUNDING.*—*Funding for the Commission shall be*
16 *provided by the Secretary of the Treasury and by the Sec-*
17 *retary of Transportation, out of funds available to those*
18 *agencies for administrative and policy functions.*

19 (f) *STAFF OF FEDERAL AGENCIES.*—*Upon request of*
20 *the Commission, the head of any department or agency of*
21 *the United States may detail any of the personnel of that*
22 *department or agency to the Commission to assist in car-*
23 *rying out its duties under this section.*

24 (g) *OBTAINING DATA.*—*The Commission may secure*
25 *directly from any department or agency of the United*

1 *States, information (other than information required by*
2 *any law to be kept confidential by such department or agen-*
3 *cy) necessary for the Commission to carry out its duties*
4 *under this section. Upon request of the Commission, the*
5 *head of that department or agency shall furnish such non-*
6 *confidential information to the Commission. The Commis-*
7 *sion shall also gather evidence through such means as it*
8 *may deem appropriate, including through holding hearings*
9 *and soliciting comments by means of Federal Register no-*
10 *tices.*

11 *(h) REPORT.—Not later than 2 years after the date*
12 *of its first meeting, the Commission shall transmit its final*
13 *report, including recommendations, to the Secretary of*
14 *Transportation, the Secretary of the Treasury, and the*
15 *Committee on Ways and Means of the House of Representa-*
16 *tives, the Committee on Finance of the Senate, the Com-*
17 *mittee on Transportation and Infrastructure of the House*
18 *of Representatives, the Committee on Environment and*
19 *Public Works of the Senate, and the Committee on Banking,*
20 *Housing, and Urban Affairs of the Senate.*

21 *(i) TERMINATION.—The Commission shall terminate*
22 *on the 180th day following the date of transmittal of the*
23 *report under subsection (h). All records and papers of the*
24 *Commission shall thereupon be delivered to the Adminis-*

1 *trator of General Services for deposit in the National Ar-*
2 *chives.*

3 **SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE**
4 **AND INTERAGENCY COOPERATION.**

5 *(a) IN GENERAL.—Not later than January 31, 2006,*
6 *the Secretary of the Treasury shall submit to the Committee*
7 *on Finance of the Senate and the Committee on Ways and*
8 *Means of the House of Representatives a report regarding*
9 *fuel tax enforcement which shall include the information*
10 *and analysis specified in subsections (b) and (c) and any*
11 *other information and recommendations the Secretary of*
12 *the Treasury may deem appropriate.*

13 *(b) AUDITS.—With respect to audits conducted by the*
14 *Internal Revenue Service, the report required under sub-*
15 *section (a) shall include—*

16 *(1) the number and geographic distribution of*
17 *audits conducted annually, by fiscal year, between*
18 *October 1, 2001, and September 30, 2005;*

19 *(2) the total volume involved for each of the tax-*
20 *able fuels covered by such audits and a comparison*
21 *to the annual production of such fuels;*

22 *(3) the staff hours and number of personnel de-*
23 *voted to the audits per year; and*

1 (4) *the results of such audits by year, including*
2 *total tax collected, total penalties collected, and num-*
3 *ber of referrals for criminal prosecution.*

4 (c) *ENFORCEMENT ACTIVITIES.*—*With respect to en-*
5 *forcement activities, the report required under subsection*
6 *(a) shall include—*

7 (1) *the number and geographic distribution of*
8 *criminal investigations and prosecutions annually, by*
9 *fiscal year, between October 1, 2001, and September*
10 *30, 2005, and the results of such investigations and*
11 *prosecutions;*

12 (2) *to the extent such investigations and prosecu-*
13 *tions involved other agencies, State or Federal, a*
14 *breakdown by agency of the number of joint investiga-*
15 *tions involved;*

16 (3) *an assessment of the effectiveness of joint ac-*
17 *tion and cooperation between the Department of the*
18 *Treasury and other Federal and State agencies, in-*
19 *cluding a discussion of the ability and need to share*
20 *information across agencies for both civil and crimi-*
21 *nal Federal tax enforcement and enforcement of State*
22 *or Federal laws relating to fuels;*

23 (4) *the staff hours and number of personnel de-*
24 *voted to criminal investigations and prosecutions per*
25 *year;*

1 (5) *the staff hours and number of personnel de-*
2 *voted to administrative collection of fuel taxes; and*

3 (6) *the results of administrative collection efforts*
4 *annually, by fiscal year, between October 1, 2001,*
5 *and September 30, 2005.*

6 **SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDI-**
7 **TURE PURPOSES TO INCLUDE FUNDING FOR**
8 **STUDIES OF SUPPLEMENTAL OR ALTER-**
9 **NATIVE FINANCING FOR THE HIGHWAY**
10 **TRUST FUND.**

11 (a) *IN GENERAL.*—*From amounts available in the*
12 *Highway Trust Fund, there is authorized to be expended*
13 *for 2 comprehensive studies of supplemental or alternative*
14 *funding sources for the Highway Trust Fund—*

15 (1) *\$1,000,000 to the Western Transportation In-*
16 *stitute of the College of Engineering at Montana State*
17 *University for the study and report described in sub-*
18 *section (b), and*

19 (2) *\$16,500,000 to the Public Policy Center of*
20 *the University of Iowa for the study and report de-*
21 *scribed in subsection (c).*

22 (b) *STUDY OF FUNDING MECHANISMS.*—*Not later than*
23 *December 31, 2006, the Western Transportation Institute*
24 *of the College of Engineering at Montana State University*
25 *shall report to the Secretary of the Treasury and the Sec-*

1 *retary of Transportation on a study of highway funding*
2 *mechanisms of other industrialized nations, an examina-*
3 *tion of the viability of alternative funding proposals, in-*
4 *cluding congestion pricing, greater reliance on tolls, privat-*
5 *ization of facilities, and bonding for construction of added*
6 *capacity, and an examination of increasing the rates of*
7 *motor fuels taxes in effect on the date of the enactment of*
8 *this Act, including the indexation of such rates.*

9 (c) *STUDY ON FIELD TEST OF ON-BOARD COMPUTER*
10 *ASSESSMENT OF HIGHWAY USE TAXES.*—Not later than
11 *December 31, 2011, the Public Policy Center of the Univer-*
12 *sity of Iowa shall direct, analyze, and report to the Sec-*
13 *retary of the Treasury and the Secretary of Transportation*
14 *on a long-term field test of an approach to assessing high-*
15 *way use taxes based upon actual mileage driven by a spe-*
16 *cific vehicle on specific types of highways by use of an on-*
17 *board computer—*

18 (1) *which is linked to satellites to calculate high-*
19 *way mileage traversed,*

20 (2) *which computes the appropriate highway use*
21 *tax for each of the Federal, State, and local govern-*
22 *ments as the vehicle makes use of the highways, and*

23 (3) *the data from which is periodically*
24 *downloaded by the vehicle owner to a collection center*
25 *for an assessment of highway use taxes due in each*

1 *jurisdiction traversed. The components of the field test*
2 *shall include 2 years for preparation, including selec-*
3 *tion of vendors and test participants, and 3-year test-*
4 *ing period.*

5 **SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY**
6 **TRUCKS FOR NON-TRANSPORTATION PUR-**
7 **POSES.**

8 *(a) STUDY.—The Secretary of the Treasury shall con-*
9 *duct a study regarding the use of highway motor fuel by*
10 *trucks that is not used for the propulsion of the vehicle. As*
11 *part of such study—*

12 *(1) in the case of vehicles carrying equipment*
13 *that is unrelated to the transportation function of the*
14 *vehicle—*

15 *(A) the Secretary of the Treasury, in con-*
16 *sultation with the Secretary of Transportation,*
17 *and with public notice and comment, shall deter-*
18 *mine the average annual amount of tax paid fuel*
19 *consumed per vehicle, by type of vehicle, used by*
20 *the propulsion engine to provide the power to op-*
21 *erate the equipment attached to the highway ve-*
22 *hicle, and*

23 *(B) the Secretary of the Treasury shall re-*
24 *view the technical and administrative feasibility*

1 *of exempting such nonpropulsive use of highway*
2 *fuels for the highway motor fuels excise taxes,*

3 *(2) in the case where non-transportation equip-*
4 *ment is run by a separate motor—*

5 *(A) the Secretary of the Treasury shall de-*
6 *termine the annual average amount of fuel ex-*
7 *empted from tax in the use of such equipment by*
8 *equipment type, and*

9 *(B) the Secretary of the Treasury shall re-*
10 *view issues of administration and compliance re-*
11 *lated to the present-law exemption provided for*
12 *such fuel use, and*

13 *(3) the Secretary of the Treasury shall—*

14 *(A) estimate the amount of taxable fuel con-*
15 *sumed by trucks and the emissions of various*
16 *pollutants due to the long-term idling of diesel*
17 *engines, and*

18 *(B) determine the cost of reducing such*
19 *long-term idling through the use of plug-ins at*
20 *truck stops, auxiliary power units, or other tech-*
21 *nologies.*

22 *(b) REPORT.—Not later than January 1, 2006, the*
23 *Secretary of the Treasury shall report the findings of the*
24 *study required under subsection (a) to the Committee on*

1 *Finance of the Senate and the Committee on Ways and*
2 *Means of the House of Representatives.*

3 **SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.**

4 (a) *STUDY.*—*The Delta Regional Authority shall con-*
5 *duct a study of the transportation assets and needs in the*
6 *States of Alabama, Arkansas, Illinois, Kentucky, Lou-*
7 *isiana, Mississippi, Missouri, and Tennessee which com-*
8 *prise the Delta region.*

9 (b) *REGIONAL STRATEGIC TRANSPORTATION PLAN.*—
10 *Upon completion of the study required under subsection (a),*
11 *the Delta Regional Authority shall establish a regional stra-*
12 *tegic transportation plan to achieve efficient transportation*
13 *systems in the Delta region. In developing the regional stra-*
14 *tegic transportation plan, the Delta Regional Authority*
15 *shall consult with local planning and development districts,*
16 *local and regional governments, metropolitan planning or-*
17 *ganizations, State transportation entities, and Federal*
18 *transportation agencies.*

19 (c) *ELEMENTS OF STUDY AND PLAN.*—*The study and*
20 *plan under this section shall include the following transpor-*
21 *tation modes and systems: transit, rail, highway, interstate,*
22 *bridges, air, airports, waterways and ports.*

23 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
24 *authorized to be appropriated to the Delta Regional Author-*

1 *ity \$1,000,000 to carry out the purposes of this section, to*
2 *remain available until expended.*

3 **SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT**
4 **AND VAN POOLING BENEFITS.**

5 (a) *IN GENERAL.*—Subparagraph (A) of section
6 132(f)(2) (relating to limitation on exclusion) is amended
7 by striking “\$100” and inserting “\$120”.

8 (b) *INFLATION ADJUSTMENT CONFORMING AMEND-*
9 *MENTS.*—The last sentence of section 132(f)(6)(A) (relating
10 to inflation adjustment) is amended—

11 (1) by striking “2002” and inserting “2005”,
12 and

13 (2) by striking “2001” and inserting “2004”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to taxable years beginning after Decem-
16 ber 31, 2004.

17 **SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF**
18 **BIODIESEL.**

19 (a) *STUDY.*—The General Comptroller of the United
20 States shall conduct a study related to biodiesel fuels and
21 the tax credit for biodiesel fuels established under this Act.
22 Such study shall include—

23 (1) an assessment on whether such credit pro-
24 vides sufficient assistance to the producers of biodiesel

1 *fuel to establish the fuel as a viable energy alternative*
2 *in the current market place,*

3 *(2) an assessment on how long such credit or*
4 *similar subsidy would have to remain in effect before*
5 *biodiesel fuel can compete in the market place without*
6 *such assistance,*

7 *(3) a cost-benefit analysis of such credit, com-*
8 *paring the cost of the credit in forgone revenue to the*
9 *benefits of lower fuel costs for consumers, increased*
10 *profitability for the biodiesel industry, increased farm*
11 *income, reduced program outlays from the Depart-*
12 *ment of Agriculture, and the improved environmental*
13 *conditions through the use of biodiesel fuel, and*

14 *(4) an assessment on whether such credit results*
15 *in any unintended consequences for unrelated indus-*
16 *tries, including the impact, if any, on the glycerin*
17 *market.*

18 *(b) REPORT.—Not later than 2 years after the date*
19 *of the enactment of this Act, the Comptroller General of the*
20 *United States shall report the findings of the study required*
21 *under subsection (a) to the Committee on Finance of the*
22 *Senate and the Committee on Ways and Means of the House*
23 *of Representatives.*

1 ***Subtitle G—Revenue Offsets***

2 ***PART I—LIMITATION ON EXPENSING CERTAIN***

3 ***PASSENGER AUTOMOBILES***

4 ***SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION***

5 ***OF CERTAIN PASSENGER AUTOMOBILES.***

6 *(a) IN GENERAL.—Section 179(b) (relating to limita-*
 7 *tions) is amended by adding at the end the following new*
 8 *paragraph:*

9 *“(6) LIMITATION ON COST TAKEN INTO ACCOUNT*
 10 *FOR CERTAIN PASSENGER VEHICLES.—*

11 *“(A) IN GENERAL.—The cost of any sport*
 12 *utility vehicle for any taxable year which may*
 13 *be taken into account under this section shall not*
 14 *exceed \$25,000.*

15 *“(B) SPORT UTILITY VEHICLE.—For pur-*
 16 *poses of subparagraph (A)—*

17 *“(i) IN GENERAL.—The term ‘sport*
 18 *utility vehicle’ means any 4-wheeled vehicle*
 19 *which—*

20 *“(I) is manufactured primarily*
 21 *for use on public streets, roads, and*
 22 *highways,*

23 *“(II) is not subject to section*
 24 *280F, and*

1 “(III) is rated at not more than
2 14,000 pounds gross vehicle weight.

3 “(ii) CERTAIN VEHICLES EXCLUDED.—
4 Such term does not include any vehicle
5 which—

6 “(I) does not have the primary
7 load carrying device or container at-
8 tached,

9 “(II) has a seating capacity of
10 more than 12 individuals,

11 “(III) is designed for more than 9
12 individuals in seating rearward of the
13 driver’s seat,

14 “(IV) is equipped with an open
15 cargo area, or a covered box not read-
16 ily accessible from the passenger com-
17 partment, of at least 72.0 inches in in-
18 terior length, or

19 “(V) has an integral enclosure,
20 fully enclosing the driver compartment
21 and load carrying device, does not have
22 seating rearward of the driver’s seat,
23 and has no body section protruding
24 more than 30 inches ahead of the lead-
25 ing edge of the windshield.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to property placed in service after Feb-*
3 *ruary 2, 2004.*

4 **PART II—PROVISIONS DESIGNED TO CURTAIL**
5 **TAX SHELTERS**

6 **SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
7 **TRINE.**

8 (a) *IN GENERAL.*—*Section 7701 is amended by redes-*
9 *ignating subsection (n) as subsection (o) and by inserting*
10 *after subsection (m) the following new subsection:*

11 “(n) *CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
12 *TRINE; ETC.*—

13 “(1) *GENERAL RULES.*—

14 “(A) *IN GENERAL.*—*In any case in which a*
15 *court determines that the economic substance*
16 *doctrine is relevant for purposes of this title to*
17 *a transaction (or series of transactions), such*
18 *transaction (or series of transactions) shall have*
19 *economic substance only if the requirements of*
20 *this paragraph are met.*

21 “(B) *DEFINITION OF ECONOMIC SUB-*
22 *STANCE.*—*For purposes of subparagraph (A)—*

23 “(i) *IN GENERAL.*—*A transaction has*
24 *economic substance only if—*

1 “(I) the transaction changes in a
2 meaningful way (apart from Federal
3 tax effects) the taxpayer’s economic po-
4 sition, and

5 “(II) the taxpayer has a substan-
6 tial nontax purpose for entering into
7 such transaction and the transaction is
8 a reasonable means of accomplishing
9 such purpose.

10 *In applying subclause (II), a purpose of*
11 *achieving a financial accounting benefit*
12 *shall not be taken into account in deter-*
13 *mining whether a transaction has a sub-*
14 *stantial nontax purpose if the origin of such*
15 *financial accounting benefit is a reduction*
16 *of income tax.*

17 “(ii) *SPECIAL RULE WHERE TAXPAYER*
18 *RELIES ON PROFIT POTENTIAL.—A trans-*
19 *action shall not be treated as having eco-*
20 *nomics substance by reason of having a po-*
21 *tential for profit unless—*

22 “(I) the present value of the rea-
23 sonably expected pre-tax profit from
24 the transaction is substantial in rela-
25 tion to the present value of the expected

1 *net tax benefits that would be allowed*
2 *if the transaction were respected, and*

3 *“(II) the reasonably expected pre-*
4 *tax profit from the transaction exceeds*
5 *a risk-free rate of return.*

6 *“(C) TREATMENT OF FEES AND FOREIGN*
7 *TAXES.—Fees and other transaction expenses*
8 *and foreign taxes shall be taken into account as*
9 *expenses in determining pre-tax profit under*
10 *subparagraph (B)(ii).*

11 *“(2) SPECIAL RULES FOR TRANSACTIONS WITH*
12 *TAX-INDIFFERENT PARTIES.—*

13 *“(A) SPECIAL RULES FOR FINANCING*
14 *TRANSACTIONS.—The form of a transaction*
15 *which is in substance the borrowing of money or*
16 *the acquisition of financial capital directly or*
17 *indirectly from a tax-indifferent party shall not*
18 *be respected if the present value of the deductions*
19 *to be claimed with respect to the transaction is*
20 *substantially in excess of the present value of the*
21 *anticipated economic returns of the person lend-*
22 *ing the money or providing the financial capital.*
23 *A public offering shall be treated as a borrowing,*
24 *or an acquisition of financial capital, from a*
25 *tax-indifferent party if it is reasonably expected*

1 that at least 50 percent of the offering will be
2 placed with tax-indifferent parties.

3 “(B) *ARTIFICIAL INCOME SHIFTING AND*
4 *BASIS ADJUSTMENTS.*—The form of a trans-
5 action with a tax-indifferent party shall not be
6 respected if—

7 “(i) it results in an allocation of in-
8 come or gain to the tax-indifferent party in
9 excess of such party’s economic income or
10 gain, or

11 “(ii) it results in a basis adjustment or
12 shifting of basis on account of overstating
13 the income or gain of the tax-indifferent
14 party.

15 “(3) *DEFINITIONS AND SPECIAL RULES.*—For
16 purposes of this subsection—

17 “(A) *ECONOMIC SUBSTANCE DOCTRINE.*—
18 The term ‘economic substance doctrine’ means
19 the common law doctrine under which tax bene-
20 fits under subtitle A with respect to a trans-
21 action are not allowable if the transaction does
22 not have economic substance or lacks a business
23 purpose.

24 “(B) *TAX-INDIFFERENT PARTY.*—The term
25 ‘tax-indifferent party’ means any person or enti-

1 *ty not subject to tax imposed by subtitle A. A*
2 *person shall be treated as a tax-indifferent party*
3 *with respect to a transaction if the items taken*
4 *into account with respect to the transaction have*
5 *no substantial impact on such person's liability*
6 *under subtitle A.*

7 “(C) *EXCEPTION FOR PERSONAL TRANS-*
8 *ACTIONS OF INDIVIDUALS.—In the case of an in-*
9 *dividual, this subsection shall apply only to*
10 *transactions entered into in connection with a*
11 *trade or business or an activity engaged in for*
12 *the production of income.*

13 “(D) *TREATMENT OF LESSORS.—In apply-*
14 *ing paragraph (1)(B)(ii) to the lessor of tangible*
15 *property subject to a lease—*

16 “(i) *the expected net tax benefits with*
17 *respect to the leased property shall not in-*
18 *clude the benefits of—*

19 “(I) *depreciation,*

20 “(II) *any tax credit, or*

21 “(III) *any other deduction as pro-*
22 *vided in guidance by the Secretary,*
23 *and*

24 “(ii) *subclause (II) of paragraph*
25 *(1)(B)(ii) shall be disregarded in deter-*

1 *mining whether any of such benefits are al-*
2 *lowable.*

3 “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*
4 *FECTED.—Except as specifically provided in this sub-*
5 *section, the provisions of this subsection shall not be*
6 *construed as altering or supplanting any other rule of*
7 *law, and the requirements of this subsection shall be*
8 *construed as being in addition to any such other rule*
9 *of law.*

10 “(5) *REGULATIONS.—The Secretary shall pre-*
11 *scribe such regulations as may be necessary or appro-*
12 *priate to carry out the purposes of this subsection.*
13 *Such regulations may include exemptions from the*
14 *application of this subsection.”.*

15 (b) *EFFECTIVE DATE.—The amendments made by this*
16 *section shall apply to transactions entered into after Feb-*
17 *ruary 2, 2004.*

18 **SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORT-**
19 **ABLE TRANSACTION.**

20 (a) *IN GENERAL.—Part I of subchapter B of chapter*
21 *68 (relating to assessable penalties) is amended by inserting*
22 *after section 6707 the following new section:*

1 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**
2 **ABLE TRANSACTION INFORMATION WITH RE-**
3 **TURN OR STATEMENT.**

4 *“(a) IMPOSITION OF PENALTY.—Any person who fails*
5 *to include on any return or statement any information with*
6 *respect to a reportable transaction which is required under*
7 *section 6011 to be included with such return or statement*
8 *shall pay a penalty in the amount determined under sub-*
9 *section (b).*

10 *“(b) AMOUNT OF PENALTY.—*

11 *“(1) IN GENERAL.—Except as provided in para-*
12 *graphs (2) and (3), the amount of the penalty under*
13 *subsection (a) shall be \$50,000.*

14 *“(2) LISTED TRANSACTION.—The amount of the*
15 *penalty under subsection (a) with respect to a listed*
16 *transaction shall be \$100,000.*

17 *“(3) INCREASE IN PENALTY FOR LARGE ENTITIES*
18 *AND HIGH NET WORTH INDIVIDUALS.—*

19 *“(A) IN GENERAL.—In the case of a failure*
20 *under subsection (a) by—*

21 *“(i) a large entity, or*

22 *“(ii) a high net worth individual,*

23 *the penalty under paragraph (1) or (2) shall be*
24 *twice the amount determined without regard to*
25 *this paragraph.*

1 “(B) *LARGE ENTITY*.—For purposes of sub-
2 paragraph (A), the term ‘large entity’ means,
3 with respect to any taxable year, a person (other
4 than a natural person) with gross receipts in ex-
5 cess of \$10,000,000 for the taxable year in which
6 the reportable transaction occurs or the pre-
7 ceding taxable year. Rules similar to the rules of
8 paragraph (2) and subparagraphs (B), (C), and
9 (D) of paragraph (3) of section 448(c) shall
10 apply for purposes of this subparagraph.

11 “(C) *HIGH NET WORTH INDIVIDUAL*.—For
12 purposes of subparagraph (A), the term ‘high net
13 worth individual’ means, with respect to a re-
14 portable transaction, a natural person whose net
15 worth exceeds \$2,000,000 immediately before the
16 transaction.

17 “(c) *DEFINITIONS*.—For purposes of this section—

18 “(1) *REPORTABLE TRANSACTION*.—The term ‘re-
19 portable transaction’ means any transaction with re-
20 spect to which information is required to be included
21 with a return or statement because, as determined
22 under regulations prescribed under section 6011, such
23 transaction is of a type which the Secretary deter-
24 mines as having a potential for tax avoidance or eva-
25 sion.

1 “(2) *LISTED TRANSACTION.*—*Except as provided*
2 *in regulations, the term ‘listed transaction’ means a*
3 *reportable transaction which is the same as, or sub-*
4 *stantially similar to, a transaction specifically identi-*
5 *fied by the Secretary as a tax avoidance transaction*
6 *for purposes of section 6011.*

7 “(d) *AUTHORITY TO RESCIND PENALTY.*—

8 “(1) *IN GENERAL.*—*The Commissioner of Inter-*
9 *nal Revenue may rescind all or any portion of any*
10 *penalty imposed by this section with respect to any*
11 *violation if—*

12 “(A) *the violation is with respect to a re-*
13 *portable transaction other than a listed trans-*
14 *action,*

15 “(B) *the person on whom the penalty is im-*
16 *posed has a history of complying with the re-*
17 *quirements of this title,*

18 “(C) *it is shown that the violation is due to*
19 *an unintentional mistake of fact;*

20 “(D) *imposing the penalty would be against*
21 *equity and good conscience, and*

22 “(E) *rescinding the penalty would promote*
23 *compliance with the requirements of this title*
24 *and effective tax administration.*

1 “(2) *DISCRETION.*—*The exercise of authority*
2 *under paragraph (1) shall be at the sole discretion of*
3 *the Commissioner and may be delegated only to the*
4 *head of the Office of Tax Shelter Analysis. The Com-*
5 *missioner, in the Commissioner’s sole discretion, may*
6 *establish a procedure to determine if a penalty should*
7 *be referred to the Commissioner or the head of such*
8 *Office for a determination under paragraph (1).*

9 “(3) *NO APPEAL.*—*Notwithstanding any other*
10 *provision of law, any determination under this sub-*
11 *section may not be reviewed in any administrative or*
12 *judicial proceeding.*

13 “(4) *RECORDS.*—*If a penalty is rescinded under*
14 *paragraph (1), the Commissioner shall place in the*
15 *file in the Office of the Commissioner the opinion of*
16 *the Commissioner or the head of the Office of Tax*
17 *Shelter Analysis with respect to the determination,*
18 *including—*

19 “(A) *the facts and circumstances of the*
20 *transaction,*

21 “(B) *the reasons for the rescission, and*

22 “(C) *the amount of the penalty rescinded.*

23 “(5) *REPORT.*—*The Commissioner shall each*
24 *year report to the Committee on Ways and Means of*

1 *the House of Representatives and the Committee on*
2 *Finance of the Senate—*

3 *“(A) a summary of the total number and*
4 *aggregate amount of penalties imposed, and re-*
5 *scinded, under this section, and*

6 *“(B) a description of each penalty rescinded*
7 *under this subsection and the reasons therefor.*

8 *“(e) PENALTY REPORTED TO SEC.—In the case of a*
9 *person—*

10 *“(1) which is required to file periodic reports*
11 *under section 13 or 15(d) of the Securities Exchange*
12 *Act of 1934 or is required to be consolidated with an-*
13 *other person for purposes of such reports, and*

14 *“(2) which—*

15 *“(A) is required to pay a penalty under*
16 *this section with respect to a listed transaction,*

17 *“(B) is required to pay a penalty under sec-*
18 *tion 6662A with respect to any reportable trans-*
19 *action at a rate prescribed under section*
20 *6662A(c), or*

21 *“(C) is required to pay a penalty under sec-*
22 *tion 6662B with respect to any noneconomic*
23 *substance transaction,*

24 *the requirement to pay such penalty shall be disclosed in*
25 *such reports filed by such person for such periods as the*

1 *Secretary shall specify. Failure to make a disclosure in ac-*
2 *cordance with the preceding sentence shall be treated as a*
3 *failure to which the penalty under subsection (b)(2) applies.*

4 “(f) *COORDINATION WITH OTHER PENALTIES.—The*
5 *penalty imposed by this section is in addition to any pen-*
6 *alty imposed under this title.”.*

7 “(b) *CONFORMING AMENDMENT.—The table of sections*
8 *for part I of subchapter B of chapter 68 is amended by*
9 *inserting after the item relating to section 6707 the fol-*
10 *lowing:*

*“Sec. 6707A. Penalty for failure to include reportable transaction information
with return or statement.”.*

11 “(c) *EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to returns and statements the due date*
13 *for which is after the date of the enactment of this Act.*

14 **SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED**
15 **TRANSACTIONS AND OTHER REPORTABLE**
16 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
17 **AVOIDANCE PURPOSE.**

18 “(a) *IN GENERAL.—Subchapter A of chapter 68 is*
19 *amended by inserting after section 6662 the following new*
20 *section:*

1 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY**
2 **ON UNDERSTATEMENTS WITH RESPECT TO**
3 **REPORTABLE TRANSACTIONS.**

4 “(a) *IMPOSITION OF PENALTY.*—If a taxpayer has a
5 reportable transaction understatement for any taxable year,
6 there shall be added to the tax an amount equal to 20 per-
7 cent of the amount of such understatement.

8 “(b) *REPORTABLE TRANSACTION UNDERSTATE-*
9 *MENT.*—For purposes of this section—

10 “(1) *IN GENERAL.*—The term ‘reportable trans-
11 action understatement’ means the sum of—

12 “(A) the product of—

13 “(i) the amount of the increase (if any)
14 in taxable income which results from a dif-
15 ference between the proper tax treatment of
16 an item to which this section applies and
17 the taxpayer’s treatment of such item (as
18 shown on the taxpayer’s return of tax), and

19 “(ii) the highest rate of tax imposed by
20 section 1 (section 11 in the case of a tax-
21 payer which is a corporation), and

22 “(B) the amount of the decrease (if any) in
23 the aggregate amount of credits determined
24 under subtitle A which results from a difference
25 between the taxpayer’s treatment of an item to
26 which this section applies (as shown on the tax-

1 payer's return of tax) and the proper tax treat-
2 ment of such item.

3 For purposes of subparagraph (A), any reduction of
4 the excess of deductions allowed for the taxable year
5 over gross income for such year, and any reduction
6 in the amount of capital losses which would (without
7 regard to section 1211) be allowed for such year, shall
8 be treated as an increase in taxable income.

9 “(2) *ITEMS TO WHICH SECTION APPLIES.*—This
10 section shall apply to any item which is attributable
11 to—

12 “(A) any listed transaction, and

13 “(B) any reportable transaction (other than
14 a listed transaction) if a significant purpose of
15 such transaction is the avoidance or evasion of
16 Federal income tax.

17 “(c) *HIGHER PENALTY FOR NONDISCLOSED LISTED*
18 *AND OTHER AVOIDANCE TRANSACTIONS.*—

19 “(1) *IN GENERAL.*—Subsection (a) shall be ap-
20 plied by substituting ‘30 percent’ for ‘20 percent’ with
21 respect to the portion of any reportable transaction
22 understatement with respect to which the requirement
23 of section 6664(d)(2)(A) is not met.

24 “(2) *RULES APPLICABLE TO ASSERTION AND*
25 *COMPROMISE OF PENALTY.*—

1 “(A) *IN GENERAL.*—Only upon the ap-
2 proval by the Chief Counsel for the Internal Rev-
3 enue Service or the Chief Counsel’s delegate at
4 the national office of the Internal Revenue Serv-
5 ice may a penalty to which paragraph (1) ap-
6 plies be included in a 1st letter of proposed defi-
7 ciency which allows the taxpayer an opportunity
8 for administrative review in the Internal Rev-
9 enue Service Office of Appeals. If such a letter is
10 provided to the taxpayer, only the Commissioner
11 of Internal Revenue may compromise all or any
12 portion of such penalty.

13 “(B) *APPLICABLE RULES.*—The rules of
14 paragraphs (2), (3), (4), and (5) of section
15 6707A(d) shall apply for purposes of subpara-
16 graph (A).

17 “(d) *DEFINITIONS OF REPORTABLE AND LISTED*
18 *TRANSACTIONS.*—For purposes of this section, the terms ‘re-
19 portable transaction’ and ‘listed transaction’ have the re-
20 spective meanings given to such terms by section 6707A(c).

21 “(e) *SPECIAL RULES.*—

22 “(1) *COORDINATION WITH PENALTIES, ETC., ON*
23 *OTHER UNDERSTATEMENTS.*—In the case of an under-
24 statement (as defined in section 6662(d)(2))—

1 “(A) *the amount of such understatement*
2 *(determined without regard to this paragraph)*
3 *shall be increased by the aggregate amount of re-*
4 *portable transaction understatements and non-*
5 *economic substance transaction understatements*
6 *for purposes of determining whether such under-*
7 *statement is a substantial understatement under*
8 *section 6662(d)(1), and*

9 “(B) *the addition to tax under section*
10 *6662(a) shall apply only to the excess of the*
11 *amount of the substantial understatement (if*
12 *any) after the application of subparagraph (A)*
13 *over the aggregate amount of reportable trans-*
14 *action understatements and noneconomic sub-*
15 *stance transaction understatements.*

16 “(2) *COORDINATION WITH OTHER PENALTIES.—*

17 “(A) *APPLICATION OF FRAUD PENALTY.—*
18 *References to an underpayment in section 6663*
19 *shall be treated as including references to a re-*
20 *portable transaction understatement and a non-*
21 *economic substance transaction understatement.*

22 “(B) *NO DOUBLE PENALTY.—This section*
23 *shall not apply to any portion of an understate-*
24 *ment on which a penalty is imposed under sec-*
25 *tion 6662B or 6663.*

1 “(3) *SPECIAL RULE FOR AMENDED RETURNS.*—
2 *Except as provided in regulations, in no event shall*
3 *any tax treatment included with an amendment or*
4 *supplement to a return of tax be taken into account*
5 *in determining the amount of any reportable trans-*
6 *action understatement or noneconomic substance*
7 *transaction understatement if the amendment or sup-*
8 *plement is filed after the earlier of the date the tax-*
9 *payer is first contacted by the Secretary regarding the*
10 *examination of the return or such other date as is*
11 *specified by the Secretary.*

12 “(4) *NONECONOMIC SUBSTANCE TRANS-*
13 *ACTION UNDERSTATEMENT.*—*For purposes of this*
14 *subsection, the term ‘noneconomic substance*
15 *transaction understatement’ has the meaning*
16 *given such term by section 6662B(c).*

17 “(5) *CROSS REFERENCE.*—

**“For reporting of section 6662A(c) penalty to the
Securities and Exchange Commission, see section
6707A(e).”**

18 (b) *DETERMINATION OF OTHER UNDERSTATE-*
19 *MENTS.*—*Subparagraph (A) of section 6662(d)(2) is*
20 *amended by adding at the end the following flush sentence:*

21 *“The excess under the preceding sentence shall be*
22 *determined without regard to items to which sec-*
23 *tion 6662A applies and without regard to items*

1 *with respect to which a penalty is imposed by*
2 *section 6662B.”.*

3 (c) *REASONABLE CAUSE EXCEPTION.—*

4 (1) *IN GENERAL.—Section 6664 is amended by*
5 *adding at the end the following new subsection:*

6 “(d) *REASONABLE CAUSE EXCEPTION FOR REPORT-*
7 *ABLE TRANSACTION UNDERSTATEMENTS.—*

8 “(1) *IN GENERAL.—No penalty shall be imposed*
9 *under section 6662A with respect to any portion of a*
10 *reportable transaction understatement if it is shown*
11 *that there was a reasonable cause for such portion*
12 *and that the taxpayer acted in good faith with respect*
13 *to such portion.*

14 “(2) *SPECIAL RULES.—Paragraph (1) shall not*
15 *apply to any reportable transaction understatement*
16 *unless—*

17 “(A) *the relevant facts affecting the tax*
18 *treatment of the item are adequately disclosed in*
19 *accordance with the regulations prescribed under*
20 *section 6011,*

21 “(B) *there is or was substantial authority*
22 *for such treatment, and*

23 “(C) *the taxpayer reasonably believed that*
24 *such treatment was more likely than not the*
25 *proper treatment.*

1 *A taxpayer failing to adequately disclose in accord-*
2 *ance with section 6011 shall be treated as meeting the*
3 *requirements of subparagraph (A) if the penalty for*
4 *such failure was rescinded under section 6707A(d).*

5 “(3) *RULES RELATING TO REASONABLE BE-*
6 *LIEF.—For purposes of paragraph (2)(C)—*

7 “(A) *IN GENERAL.—A taxpayer shall be*
8 *treated as having a reasonable belief with respect*
9 *to the tax treatment of an item only if such be-*
10 *lief—*

11 “(i) *is based on the facts and law that*
12 *exist at the time the return of tax which in-*
13 *cludes such tax treatment is filed, and*

14 “(ii) *relates solely to the taxpayer’s*
15 *chances of success on the merits of such*
16 *treatment and does not take into account*
17 *the possibility that a return will not be au-*
18 *dated, such treatment will not be raised on*
19 *audit, or such treatment will be resolved*
20 *through settlement if it is raised.*

21 “(B) *CERTAIN OPINIONS MAY NOT BE RE-*
22 *LIED UPON.—*

23 “(i) *IN GENERAL.—An opinion of a*
24 *tax advisor may not be relied upon to estab-*
25 *lish the reasonable belief of a taxpayer if—*

1 “(I) the tax advisor is described
2 in clause (ii), or

3 “(II) the opinion is described in
4 clause (iii).

5 “(ii) *DISQUALIFIED TAX ADVISORS*.—A
6 tax advisor is described in this clause if the
7 tax advisor—

8 “(I) is a material advisor (within
9 the meaning of section 6111(b)(1)) who
10 participates in the organization, man-
11 agement, promotion, or sale of the
12 transaction or who is related (within
13 the meaning of section 267(b) or
14 707(b)(1)) to any person who so par-
15 ticipates,

16 “(II) is compensated directly or
17 indirectly by a material advisor with
18 respect to the transaction,

19 “(III) has a fee arrangement with
20 respect to the transaction which is con-
21 tingent on all or part of the intended
22 tax benefits from the transaction being
23 sustained, or

24 “(IV) as determined under regula-
25 tions prescribed by the Secretary, has a

1 *disqualifying financial interest with*
2 *respect to the transaction.*

3 “(iii) *DISQUALIFIED OPINIONS.*—*For*
4 *purposes of clause (i), an opinion is dis-*
5 *qualified if the opinion—*

6 *“(I) is based on unreasonable fac-*
7 *tual or legal assumptions (including*
8 *assumptions as to future events),*

9 *“(II) unreasonably relies on rep-*
10 *resentations, statements, findings, or*
11 *agreements of the taxpayer or any*
12 *other person,*

13 *“(III) does not identify and con-*
14 *sider all relevant facts, or*

15 *“(IV) fails to meet any other re-*
16 *quirement as the Secretary may pre-*
17 *scribe.”.*

18 (2) *CONFORMING AMENDMENT.*—*The heading for*
19 *subsection (c) of section 6664 is amended by inserting*
20 *“FOR UNDERPAYMENTS” after “EXCEPTION”.*

21 (d) *CONFORMING AMENDMENTS.*—

22 (1) *Subparagraph (C) of section 461(i)(3) is*
23 *amended by striking “section 6662(d)(2)(C)(iii)” and*
24 *inserting “section 1274(b)(3)(C)”.*

1 (2) Paragraph (3) of section 1274(b) is amend-
2 ed—

3 (A) by striking “(as defined in section
4 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

5 (B) by adding at the end the following new
6 subparagraph:

7 “(C) *TAX SHELTER*.—For purposes of sub-
8 paragraph (B), the term ‘tax shelter’ means—

9 “(i) a partnership or other entity,

10 “(ii) any investment plan or arrange-
11 ment, or

12 “(iii) any other plan or arrangement,
13 if a significant purpose of such partnership, en-
14 tity, plan, or arrangement is the avoidance or
15 evasion of Federal income tax.”.

16 (3) Section 6662(d)(2) is amended by striking
17 subparagraphs (C) and (D).

18 (4) Section 6664(c)(1) is amended by striking
19 “this part” and inserting “section 6662 or 6663”.

20 (5) Subsection (b) of section 7525 is amended by
21 striking “section 6662(d)(2)(C)(iii)” and inserting
22 “section 1274(b)(3)(C)”.

23 (6)(A) The heading for section 6662 is amended
24 to read as follows:

1 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
2 **ON UNDERPAYMENTS.”**

3 *(B) The table of sections for part II of sub-*
4 *chapter A of chapter 68 is amended by striking the*
5 *item relating to section 6662 and inserting the fol-*
6 *lowing new items:*

“Sec. 6662. Imposition of accuracy-related penalty on underpayments.

“Sec. 6662A. Imposition of accuracy-related penalty on understatements with re-
spect to reportable transactions.”

7 *(e) EFFECTIVE DATE.—The amendments made by this*
8 *section shall apply to taxable years ending after the date*
9 *of the enactment of this Act.*

10 **SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
11 **UTABLE TO TRANSACTIONS LACKING ECO-**
12 **NOMIC SUBSTANCE, ETC.**

13 *(a) IN GENERAL.—Subchapter A of chapter 68 is*
14 *amended by inserting after section 6662A the following new*
15 *section:*

16 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
17 **UTABLE TO TRANSACTIONS LACKING ECO-**
18 **NOMIC SUBSTANCE, ETC.**

19 *“(a) IMPOSITION OF PENALTY.—If a taxpayer has an*
20 *noneconomic substance transaction understatement for any*
21 *taxable year, there shall be added to the tax an amount*
22 *equal to 40 percent of the amount of such understatement.*

23 *“(b) REDUCTION OF PENALTY FOR DISCLOSED TRANS-*
24 *ACTIONS.—Subsection (a) shall be applied by substituting*

1 ‘20 percent’ for ‘40 percent’ with respect to the portion of
2 any noneconomic substance transaction understatement
3 with respect to which the relevant facts affecting the tax
4 treatment of the item are adequately disclosed in the return
5 or a statement attached to the return.

6 “(c) *NONECONOMIC SUBSTANCE TRANSACTION UNDER-*
7 *STATEMENT.*—For purposes of this section—

8 “(1) *IN GENERAL.*—The term ‘noneconomic sub-
9 stance transaction understatement’ means any
10 amount which would be an understatement under sec-
11 tion 6662A(b)(1) if section 6662A were applied by
12 taking into account items attributable to noneconomic
13 substance transactions rather than items to which sec-
14 tion 6662A would apply without regard to this para-
15 graph.

16 “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—
17 The term ‘noneconomic substance transaction’ means
18 any transaction if—

19 “(A) there is a lack of economic substance
20 (within the meaning of section 7701(n)(1)) for
21 the transaction giving rise to the claimed benefit
22 or the transaction was not respected under sec-
23 tion 7701(n)(2), or

24 “(B) the transaction fails to meet the re-
25 quirements of any similar rule of law.

1 “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*
2 *ALTY.*—

3 “(1) *IN GENERAL.*—*If the 1st letter of proposed*
4 *deficiency which allows the taxpayer an opportunity*
5 *for administrative review in the Internal Revenue*
6 *Service Office of Appeals has been sent with respect*
7 *to a penalty to which this section applies, only the*
8 *Commissioner of Internal Revenue may compromise*
9 *all or any portion of such penalty.*

10 “(2) *APPLICABLE RULES.*—*The rules of para-*
11 *graphs (2), (3), (4), and (5) of section 6707A(d) shall*
12 *apply for purposes of paragraph (1).*

13 “(e) *COORDINATION WITH OTHER PENALTIES.*—*Ex-*
14 *cept as otherwise provided in this part, the penalty imposed*
15 *by this section shall be in addition to any other penalty*
16 *imposed by this title.*

17 “(f) *CROSS REFERENCES.*—

 “(1) ***For coordination of penalty with understate-***
 ments under section 6662 and other special rules, see
 section 6662A(e).

 “(2) ***For reporting of penalty imposed under this***
 section to the Securities and Exchange Commission,
 see section 6707A(e).”

18 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
19 *part II of subchapter A of chapter 68 is amended by insert-*
20 *ing after the item relating to section 6662A the following*
21 *new item:*

 “*Sec. 6662B. Penalty for understatements attributable to transactions lacking eco-*
 nomiic substance, etc.”

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to transactions entered into after Feb-*
3 *ruary 2, 2004.*

4 **SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
5 **MENT PENALTY FOR NONREPORTABLE**
6 **TRANSACTIONS.**

7 (a) *SUBSTANTIAL UNDERSTATEMENT OF CORPORA-*
8 *TIONS.*—*Section 6662(d)(1)(B) (relating to special rule for*
9 *corporations) is amended to read as follows:*

10 “(B) *SPECIAL RULE FOR CORPORATIONS.*—

11 *In the case of a corporation other than an S cor-*
12 *poration or a personal holding company (as de-*
13 *fined in section 542), there is a substantial un-*
14 *derstatement of income tax for any taxable year*
15 *if the amount of the understatement for the tax-*
16 *able year exceeds the lesser of—*

17 “(i) *10 percent of the tax required to*
18 *be shown on the return for the taxable year*
19 *(or, if greater, \$10,000), or*

20 “(ii) *\$10,000,000.*”.

21 (b) *REDUCTION FOR UNDERSTATEMENT OF TAXPAYER*
22 *DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.*—

23 (1) *IN GENERAL.*—*Section 6662(d)(2)(B)(i) (re-*
24 *lating to substantial authority) is amended to read as*
25 *follows:*

1 “(b) *SECTION NOT TO APPLY TO COMMUNICATIONS*
2 *REGARDING TAX SHELTERS.*—The privilege under sub-
3 *section (a) shall not apply to any written communication*
4 *which is—*

5 “(1) *between a federally authorized tax practi-*
6 *tioner and—*

7 “(A) *any person,*

8 “(B) *any director, officer, employee, agent,*
9 *or representative of the person, or*

10 “(C) *any other person holding a capital or*
11 *profits interest in the person, and*

12 “(2) *in connection with the promotion of the di-*
13 *rect or indirect participation of the person in any tax*
14 *shelter (as defined in section 1274(b)(3)(C)).”.*

15 “(b) *EFFECTIVE DATE.*—The amendment made by this
16 *section shall apply to communications made on or after the*
17 *date of the enactment of this Act.*

18 **SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

19 “(a) *IN GENERAL.*—Section 6111 (relating to registra-
20 *tion of tax shelters) is amended to read as follows:*

21 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

22 “(a) *IN GENERAL.*—Each material advisor with re-
23 *spect to any reportable transaction shall make a return (in*
24 *such form as the Secretary may prescribe) setting forth—*

1 “(1) information identifying and describing the
2 transaction,

3 “(2) information describing any potential tax
4 benefits expected to result from the transaction, and

5 “(3) such other information as the Secretary
6 may prescribe.

7 Such return shall be filed not later than the date specified
8 by the Secretary.

9 “(b) DEFINITIONS.—For purposes of this section—

10 “(1) MATERIAL ADVISOR.—

11 “(A) IN GENERAL.—The term ‘material ad-
12 visor’ means any person—

13 “(i) who provides any material aid,
14 assistance, or advice with respect to orga-
15 nizing, managing, promoting, selling, im-
16 plementing, or carrying out any reportable
17 transaction, and

18 “(ii) who directly or indirectly derives
19 gross income in excess of the threshold
20 amount for such aid, assistance, or advice.

21 “(B) THRESHOLD AMOUNT.—For purposes
22 of subparagraph (A), the threshold amount is—

23 “(i) \$50,000 in the case of a reportable
24 transaction substantially all of the tax bene-

1 *fits from which are provided to natural per-*
2 *sons, and*

3 “(ii) \$250,000 in any other case.

4 “(2) *REPORTABLE TRANSACTION.*—*The term ‘re-*
5 *portable transaction’ has the meaning given to such*
6 *term by section 6707A(c).*

7 “(c) *REGULATIONS.*—*The Secretary may prescribe reg-*
8 *ulations which provide—*

9 “(1) *that only 1 person shall be required to meet*
10 *the requirements of subsection (a) in cases in which*
11 *2 or more persons would otherwise be required to meet*
12 *such requirements,*

13 “(2) *exemptions from the requirements of this*
14 *section, and*

15 “(3) *such rules as may be necessary or appro-*
16 *priate to carry out the purposes of this section.”.*

17 (b) *CONFORMING AMENDMENTS.*—

18 (1) *The item relating to section 6111 in the table*
19 *of sections for subchapter B of chapter 61 is amended*
20 *to read as follows:*

 “*Sec. 6111. Disclosure of reportable transactions.*”.

21 (2)(A) *So much of section 6112 as precedes sub-*
22 *section (c) thereof is amended to read as follows:*

1 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
2 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

3 *“(a) IN GENERAL.—Each material advisor (as defined*
4 *in section 6111) with respect to any reportable transaction*
5 *(as defined in section 6707A(c)) shall maintain, in such*
6 *manner as the Secretary may by regulations prescribe, a*
7 *list—*

8 *“(1) identifying each person with respect to*
9 *whom such advisor acted as such a material advisor*
10 *with respect to such transaction, and*

11 *“(2) containing such other information as the*
12 *Secretary may by regulations require.*

13 *This section shall apply without regard to whether a mate-*
14 *rial advisor is required to file a return under section 6111*
15 *with respect to such transaction.”.*

16 *(B) Section 6112 is amended by redesignating*
17 *subsection (c) as subsection (b).*

18 *(C) Section 6112(b), as redesignated by subpara-*
19 *graph (B), is amended—*

20 *(i) by inserting “written” before “request”*
21 *in paragraph (1)(A), and*

22 *(ii) by striking “shall prescribe” in para-*
23 *graph (2) and inserting “may prescribe”.*

24 *(D) The item relating to section 6112 in the*
25 *table of sections for subchapter B of chapter 61 is*
26 *amended to read as follows:*

“Sec. 6112. *Material advisors of reportable transactions must keep lists of advisees.*”.

1 (3)(A) *The heading for section 6708 is amended*
2 *to read as follows:*

3 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**
4 **WITH RESPECT TO REPORTABLE TRANS-**
5 **ACTIONS.”.**

6 (B) *The item relating to section 6708 in the*
7 *table of sections for part I of subchapter B of chapter*
8 *68 is amended to read as follows:*

“Sec. 6708. *Failure to maintain lists of advisees with respect to reportable transactions.*”.

9 (c) *REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM*
10 *OF CONFIDENTIALITY.—Subparagraph (A) of section*
11 *6112(b)(1), as redesignated by subsection (b)(2)(B), is*
12 *amended by adding at the end the following new flush sen-*
13 *tence:*

14 “*For purposes of this section, the identity of any per-*
15 *son on such list shall not be privileged.*”.

16 (d) *EFFECTIVE DATE.—*

17 (1) *IN GENERAL.—Except as provided in para-*
18 *graph (2), the amendments made by this section shall*
19 *apply to transactions with respect to which material*
20 *aid, assistance, or advice referred to in section*
21 *6111(b)(1)(A)(i) of the Internal Revenue Code of 1986*
22 *(as added by this section) is provided after the date*
23 *of the enactment of this Act.*

1 (2) *NO CLAIM OF CONFIDENTIALITY AGAINST DIS-*
2 *CLOSURE.—The amendment made by subsection (c)*
3 *shall take effect as if included in the amendments*
4 *made by section 142 of the Deficit Reduction Act of*
5 *1984.*

6 **SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO**
7 **REGISTER TAX SHELTERS.**

8 (a) *IN GENERAL.—Section 6707 (relating to failure to*
9 *furnish information regarding tax shelters) is amended to*
10 *read as follows:*

11 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
12 **ING REPORTABLE TRANSACTIONS.**

13 “(a) *IN GENERAL.—If a person who is required to file*
14 *a return under section 6111(a) with respect to any report-*
15 *able transaction—*

16 “(1) *fails to file such return on or before the date*
17 *prescribed therefor, or*

18 “(2) *files false or incomplete information with*
19 *the Secretary with respect to such transaction,*
20 *such person shall pay a penalty with respect to such return*
21 *in the amount determined under subsection (b).*

22 “(b) *AMOUNT OF PENALTY.—*

23 “(1) *IN GENERAL.—Except as provided in para-*
24 *graph (2), the penalty imposed under subsection (a)*
25 *with respect to any failure shall be \$50,000.*

1 “(2) *LISTED TRANSACTIONS.*—*The penalty im-*
2 *posed under subsection (a) with respect to any listed*
3 *transaction shall be an amount equal to the greater*
4 *of—*

5 “(A) \$200,000, or

6 “(B) 50 percent of the gross income derived
7 by such person with respect to aid, assistance, or
8 advice which is provided with respect to the list-
9 ed transaction before the date the return includ-
10 ing the transaction is filed under section 6111.

11 *Subparagraph (B) shall be applied by substituting*
12 *‘75 percent’ for ‘50 percent’ in the case of an inten-*
13 *tional failure or act described in subsection (a).*

14 “(c) *CERTAIN RULES TO APPLY.*—*The provisions of*
15 *section 6707A(d) shall apply to any penalty imposed under*
16 *this section.*

17 “(d) *REPORTABLE AND LISTED TRANSACTIONS.*—*The*
18 *terms ‘reportable transaction’ and ‘listed transaction’ have*
19 *the respective meanings given to such terms by section*
20 *6707A(c).’.*

21 (b) *CLERICAL AMENDMENT.*—*The item relating to sec-*
22 *tion 6707 in the table of sections for part I of subchapter*
23 *B of chapter 68 is amended by striking “tax shelters” and*
24 *inserting “reportable transactions”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to returns the due date for which is after*
3 *the date of the enactment of this Act.*

4 **SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO**
5 **MAINTAIN LISTS OF INVESTORS.**

6 (a) *IN GENERAL.*—*Subsection (a) of section 6708 is*
7 *amended to read as follows:*

8 “(a) *IMPOSITION OF PENALTY.*—

9 “(1) *IN GENERAL.*—*If any person who is re-*
10 *quired to maintain a list under section 6112(a) fails*
11 *to make such list available upon written request to*
12 *the Secretary in accordance with section*
13 *6112(b)(1)(A) within 20 business days after the date*
14 *of the Secretary’s request, such person shall pay a*
15 *penalty of \$10,000 for each day of such failure after*
16 *such 20th day.*

17 “(2) *REASONABLE CAUSE EXCEPTION.*—*No pen-*
18 *alty shall be imposed by paragraph (1) with respect*
19 *to the failure on any day if such failure is due to rea-*
20 *sonable cause.”.*

21 (b) *EFFECTIVE DATE.*—*The amendment made by this*
22 *section shall apply to requests made after the date of the*
23 *enactment of this Act.*

1 **SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**
2 **CONDUCT RELATED TO TAX SHELTERS AND**
3 **REPORTABLE TRANSACTIONS.**

4 (a) *IN GENERAL.*—Section 7408 (relating to action to
5 enjoin promoters of abusive tax shelters, etc.) is amended
6 by redesignating subsection (c) as subsection (d) and by
7 striking subsections (a) and (b) and inserting the following
8 new subsections:

9 “(a) *AUTHORITY TO SEEK INJUNCTION.*—A civil ac-
10 tion in the name of the United States to enjoin any person
11 from further engaging in specified conduct may be com-
12 menced at the request of the Secretary. Any action under
13 this section shall be brought in the district court of the
14 United States for the district in which such person resides,
15 has his principal place of business, or has engaged in speci-
16 fied conduct. The court may exercise its jurisdiction over
17 such action (as provided in section 7402(a)) separate and
18 apart from any other action brought by the United States
19 against such person.

20 “(b) *ADJUDICATION AND DECREE.*—In any action
21 under subsection (a), if the court finds—

22 “(1) that the person has engaged in any specified
23 conduct, and

24 “(2) that injunctive relief is appropriate to pre-
25 vent recurrence of such conduct,

1 *the court may enjoin such person from engaging in such*
2 *conduct or in any other activity subject to penalty under*
3 *this title.*

4 “(c) *SPECIFIED CONDUCT.*—*For purposes of this sec-*
5 *tion, the term ‘specified conduct’ means any action, or fail-*
6 *ure to take action, subject to penalty under section 6700,*
7 *6701, 6707, or 6708.”.*

8 (b) *CONFORMING AMENDMENTS.*—

9 (1) *The heading for section 7408 is amended to*
10 *read as follows:*

11 **“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
12 **LATED TO TAX SHELTERS AND REPORTABLE**
13 **TRANSACTIONS.”.**

14 (2) *The table of sections for subchapter A of*
15 *chapter 67 is amended by striking the item relating*
16 *to section 7408 and inserting the following new item:*

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and report-
able transactions.”.

17 (c) *EFFECTIVE DATE.*—*The amendment made by this*
18 *section shall take effect on the day after the date of the en-*
19 *actment of this Act.*

20 **SEC. 5621. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
21 **INCOME TAX RETURN PREPARER.**

22 (a) *STANDARDS CONFORMED TO TAXPAYER STAND-*
23 *ARDS.*—*Section 6694(a) (relating to understatements due to*
24 *unrealistic positions) is amended—*

1 (1) by striking “realistic possibility of being sus-
2 tained on its merits” in paragraph (1) and inserting
3 “reasonable belief that the tax treatment in such posi-
4 tion was more likely than not the proper treatment”,

5 (2) by striking “or was frivolous” in paragraph
6 (3) and inserting “or there was no reasonable basis
7 for the tax treatment of such position”, and

8 (3) by striking “UNREALISTIC” in the heading
9 and inserting “IMPROPER”.

10 (b) *AMOUNT OF PENALTY.*—Section 6694 is amend-
11 *ed—*

12 (1) by striking “\$250” in subsection (a) and in-
13 serting “\$1,000”, and

14 (2) by striking “\$1,000” in subsection (b) and
15 inserting “\$5,000”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 *section shall apply to documents prepared after the date*
18 *of the enactment of this Act.*

19 **SEC. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN**
20 **FOREIGN FINANCIAL ACCOUNTS.**

21 (a) *IN GENERAL.*—Section 5321(a)(5) of title 31,
22 *United States Code, is amended to read as follows:*

23 “(5) *FOREIGN FINANCIAL AGENCY TRANSACTION*
24 *VIOLATION.*—

1 “(A) *PENALTY AUTHORIZED.*—*The Sec-*
2 *retary of the Treasury may impose a civil money*
3 *penalty on any person who violates, or causes*
4 *any violation of, any provision of section 5314.*

5 “(B) *AMOUNT OF PENALTY.*—

6 “(i) *IN GENERAL.*—*Except as provided*
7 *in subparagraph (C), the amount of any*
8 *civil penalty imposed under subparagraph*
9 *(A) shall not exceed \$5,000.*

10 “(ii) *REASONABLE CAUSE EXCEP-*
11 *TION.*—*No penalty shall be imposed under*
12 *subparagraph (A) with respect to any viola-*
13 *tion if—*

14 “(I) *such violation was due to*
15 *reasonable cause, and*

16 “(II) *the amount of the trans-*
17 *action or the balance in the account at*
18 *the time of the transaction was prop-*
19 *erly reported.*

20 “(C) *WILLFUL VIOLATIONS.*—*In the case of*
21 *any person willfully violating, or willfully caus-*
22 *ing any violation of, any provision of section*
23 *5314—*

1 “(i) the maximum penalty under sub-
2 paragraph (B)(i) shall be increased to the
3 greater of—

4 “(I) \$25,000, or

5 “(II) the amount (not exceeding
6 \$100,000) determined under subpara-
7 graph (D), and

8 “(ii) subparagraph (B)(ii) shall not
9 apply.

10 “(D) AMOUNT.—The amount determined
11 under this subparagraph is—

12 “(i) in the case of a violation involving
13 a transaction, the amount of the trans-
14 action, or

15 “(ii) in the case of a violation involv-
16 ing a failure to report the existence of an
17 account or any identifying information re-
18 quired to be provided with respect to an ac-
19 count, the balance in the account at the
20 time of the violation.”.

21 (b) EFFECTIVE DATE.—The amendment made by this
22 section shall apply to violations occurring after the date of
23 the enactment of this Act.

1 **SEC. 5623. FRIVOLOUS TAX SUBMISSIONS.**

2 (a) *CIVIL PENALTIES.*—Section 6702 is amended to
3 read as follows:

4 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

5 “(a) *CIVIL PENALTY FOR FRIVOLOUS TAX RE-*
6 *TURNS.*—A person shall pay a penalty of \$5,000 if—

7 “(1) such person files what purports to be a re-
8 turn of a tax imposed by this title but which—

9 “(A) does not contain information on which
10 the substantial correctness of the self-assessment
11 may be judged, or

12 “(B) contains information that on its face
13 indicates that the self-assessment is substantially
14 incorrect; and

15 “(2) the conduct referred to in paragraph (1)—

16 “(A) is based on a position which the Sec-
17 retary has identified as frivolous under sub-
18 section (c), or

19 “(B) reflects a desire to delay or impede the
20 administration of Federal tax laws.

21 “(b) *CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-*
22 *MISSIONS.*—

23 “(1) *IMPOSITION OF PENALTY.*—Except as pro-
24 vided in paragraph (3), any person who submits a
25 specified frivolous submission shall pay a penalty of
26 \$5,000.

1 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.*—*For*
2 *purposes of this section—*

3 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.*—
4 *The term ‘specified frivolous submission’ means*
5 *a specified submission if any portion of such*
6 *submission—*

7 “(i) *is based on a position which the*
8 *Secretary has identified as frivolous under*
9 *subsection (c), or*

10 “(ii) *reflects a desire to delay or im-*
11 *pede the administration of Federal tax*
12 *laws.*

13 “(B) *SPECIFIED SUBMISSION.*—*The term*
14 *‘specified submission’ means—*

15 “(i) *a request for a hearing under—*

16 “(I) *section 6320 (relating to no-*
17 *tice and opportunity for hearing upon*
18 *filing of notice of lien), or*

19 “(II) *section 6330 (relating to no-*
20 *tice and opportunity for hearing before*
21 *levy), and*

22 “(ii) *an application under—*

23 “(I) *section 6159 (relating to*
24 *agreements for payment of tax liability*
25 *in installments),*

1 “(II) section 7122 (relating to
2 *compromises*), or

3 “(III) section 7811 (relating to
4 *taxpayer assistance orders*).

5 “(3) *OPPORTUNITY TO WITHDRAW SUBMIS-*
6 *SION.—If the Secretary provides a person with notice*
7 *that a submission is a specified frivolous submission*
8 *and such person withdraws such submission within*
9 *30 days after such notice, the penalty imposed under*
10 *paragraph (1) shall not apply with respect to such*
11 *submission.*

12 “(c) *LISTING OF FRIVOLOUS POSITIONS.—The Sec-*
13 *retary shall prescribe (and periodically revise) a list of posi-*
14 *tions which the Secretary has identified as being frivolous*
15 *for purposes of this subsection. The Secretary shall not in-*
16 *clude in such list any position that the Secretary deter-*
17 *mines meets the requirement of section*
18 *6662(d)(2)(B)(i)(II).*

19 “(d) *REDUCTION OF PENALTY.—The Secretary may*
20 *reduce the amount of any penalty imposed under this sec-*
21 *tion if the Secretary determines that such reduction would*
22 *promote compliance with and administration of the Federal*
23 *tax laws.*

1 “(e) *PENALTIES IN ADDITION TO OTHER PEN-*
 2 *ALTIES.*—*The penalties imposed by this section shall be in*
 3 *addition to any other penalty provided by law.*”.

4 (b) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
 5 *INGS BEFORE LEVY.*—

6 (1) *FRIVOLOUS REQUESTS DISREGARDED.*—*Sec-*
 7 *tion 6330 (relating to notice and opportunity for*
 8 *hearing before levy) is amended by adding at the end*
 9 *the following new subsection:*

10 “(g) *FRIVOLOUS REQUESTS FOR HEARING, ETC.*—
 11 *Notwithstanding any other provision of this section, if the*
 12 *Secretary determines that any portion of a request for a*
 13 *hearing under this section or section 6320 meets the require-*
 14 *ment of clause (i) or (ii) of section 6702(b)(2)(A), then the*
 15 *Secretary may treat such portion as if it were never sub-*
 16 *mitted and such portion shall not be subject to any further*
 17 *administrative or judicial review.*”.

18 (2) *PRECLUSION FROM RAISING FRIVOLOUS*
 19 *ISSUES AT HEARING.*—*Section 6330(c)(4) is amend-*
 20 *ed—*

21 (A) *by striking “(A)” and inserting*
 22 *“(A)(i)”;*

23 (B) *by striking “(B)” and inserting “(i)”;*

24 (C) *by striking the period at the end of the*
 25 *first sentence and inserting “; or”; and*

1 (D) by inserting after subparagraph (A)(ii)
2 (as so redesignated) the following:

3 “(B) the issue meets the requirement of
4 clause (i) or (ii) of section 6702(b)(2)(A).”.

5 (3) STATEMENT OF GROUNDS.—Section
6 6330(b)(1) is amended by striking “under subsection
7 (a)(3)(B)” and inserting “in writing under subsection
8 (a)(3)(B) and states the grounds for the requested
9 hearing”.

10 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-
11 INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is
12 amended—

13 (1) in subsection (b)(1), by striking “under sub-
14 section (a)(3)(B)” and inserting “in writing under
15 subsection (a)(3)(B) and states the grounds for the re-
16 quested hearing”, and

17 (2) in subsection (c), by striking “and (e)” and
18 inserting “(e), and (g)”.

19 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
20 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
21 MENTS.—Section 7122 is amended by adding at the end
22 the following new subsection:

23 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
24 standing any other provision of this section, if the Secretary
25 determines that any portion of an application for an offer-

1 *in-compromise or installment agreement submitted under*
2 *this section or section 6159 meets the requirement of clause*
3 *(i) or (ii) of section 6702(b)(2)(A), then the Secretary may*
4 *treat such portion as if it were never submitted and such*
5 *portion shall not be subject to any further administrative*
6 *or judicial review.”.*

7 *(e) CLERICAL AMENDMENT.—The table of sections for*
8 *part I of subchapter B of chapter 68 is amended by striking*
9 *the item relating to section 6702 and inserting the following*
10 *new item:*

“Sec. 6702. Frivolous tax submissions.”.

11 *(f) EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to submissions made and issues raised*
13 *after the date on which the Secretary first prescribes a list*
14 *under section 6702(c) of the Internal Revenue Code of 1986,*
15 *as amended by subsection (a).*

16 **SEC. 5624. REGULATION OF INDIVIDUALS PRACTICING BE-**
17 **FORE THE DEPARTMENT OF TREASURY.**

18 *(a) CENSURE; IMPOSITION OF PENALTY.—*

19 *(1) IN GENERAL.—Section 330(b) of title 31,*
20 *United States Code, is amended—*

21 *(A) by inserting “, or censure,” after “De-*
22 *partment”, and*

23 *(B) by adding at the end the following new*
24 *flush sentence:*

1 “The Secretary may impose a monetary penalty on any
2 representative described in the preceding sentence. If the
3 representative was acting on behalf of an employer or any
4 firm or other entity in connection with the conduct giving
5 rise to such penalty, the Secretary may impose a monetary
6 penalty on such employer, firm, or entity if it knew, or
7 reasonably should have known, of such conduct. Such pen-
8 alty shall not exceed the gross income derived (or to be de-
9 rived) from the conduct giving rise to the penalty and may
10 be in addition to, or in lieu of, any suspension, disbarment,
11 or censure of the representative.”

12 (2) *EFFECTIVE DATE.*—The amendments made
13 by this subsection shall apply to actions taken after
14 the date of the enactment of this Act.

15 (b) *TAX SHELTER OPINIONS, ETC.*—Section 330 of
16 such title 31 is amended by adding at the end the following
17 new subsection:

18 “(d) Nothing in this section or in any other provision
19 of law shall be construed to limit the authority of the Sec-
20 retary of the Treasury to impose standards applicable to
21 the rendering of written advice with respect to any entity,
22 transaction plan or arrangement, or other plan or arrange-
23 ment, which is of a type which the Secretary determines
24 as having a potential for tax avoidance or evasion.”

1 **SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.**

2 (a) *PENALTY ON PROMOTING ABUSIVE TAX SHEL-*
3 *TERS.*—Section 6700(a) is amended by adding at the end
4 *the following new sentence: “Notwithstanding the first sen-*
5 *tence, if an activity with respect to which a penalty im-*
6 *posed under this subsection involves a statement described*
7 *in paragraph (2)(A), the amount of the penalty shall be*
8 *equal to 50 percent of the gross income derived (or to be*
9 *derived) from such activity by the person on which the pen-*
10 *alty is imposed.”.*

11 (b) *EFFECTIVE DATE.*—The amendment made by this
12 *section shall apply to activities after the date of the enact-*
13 *ment of this Act.*

14 **SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
15 **FOR WHICH REQUIRED LISTED TRANS-**
16 **ACTIONS NOT REPORTED.**

17 (a) *IN GENERAL.*—Section 6501(c) (relating to excep-
18 *tions) is amended by adding at the end the following new*
19 *paragraph:*

20 “(10) *LISTED TRANSACTIONS.*—If a taxpayer
21 *fails to include on any return or statement for any*
22 *taxable year any information with respect to a listed*
23 *transaction (as defined in section 6707A(c)(2)) which*
24 *is required under section 6011 to be included with*
25 *such return or statement, the time for assessment of*
26 *any tax imposed by this title with respect to such*

1 *transaction shall not expire before the date which is*
2 *1 year after the earlier of—*

3 *“(A) the date on which the Secretary is fur-*
4 *nished the information so required; or*

5 *“(B) the date that a material advisor (as*
6 *defined in section 6111) meets the requirements*
7 *of section 6112 with respect to a request by the*
8 *Secretary under section 6112(b) relating to such*
9 *transaction with respect to such taxpayer.”.*

10 *(b) EFFECTIVE DATE.—The amendment made by this*
11 *section shall apply to taxable years with respect to which*
12 *the period for assessing a deficiency did not expire before*
13 *the date of the enactment of this Act.*

14 **SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
15 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
16 **CLOSED REPORTABLE AND NONECONOMIC**
17 **SUBSTANCE TRANSACTIONS.**

18 *(a) IN GENERAL.—Section 163 (relating to deduction*
19 *for interest) is amended by redesignating subsection (m) as*
20 *subsection (n) and by inserting after subsection (l) the fol-*
21 *lowing new subsection:*

22 *“(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO*
23 *NONDISCLOSED REPORTABLE TRANSACTIONS AND NON-*
24 *ECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall*
25 *be allowed under this chapter for any interest paid or ac-*

1 *crued under section 6601 on any underpayment of tax*
2 *which is attributable to—*

3 “(1) *the portion of any reportable transaction*
4 *understatement (as defined in section 6662A(b)) with*
5 *respect to which the requirement of section*
6 *6664(d)(2)(A) is not met, or*

7 “(2) *any noneconomic substance transaction un-*
8 *derstatement (as defined in section 6662B(c)).”.*

9 **(b) EFFECTIVE DATE.**—*The amendments made by this*
10 *section shall apply to transactions in taxable years begin-*
11 *ning after the date of the enactment of this Act.*

12 **SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX**

13 **LAW ENFORCEMENT.**

14 *There is authorized to be appropriated \$300,000,000*
15 *for each fiscal year beginning after September 30, 2003, for*
16 *the purpose of carrying out tax law enforcement to combat*
17 *tax avoidance transactions and other tax shelters, including*
18 *the use of offshore financial accounts to conceal taxable in-*
19 *come.*

20 **PART III—OTHER CORPORATE GOVERNANCE**

21 **PROVISIONS**

22 **SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REG-**
23 **ULATION AUTHORITY.**

24 **(a) IN GENERAL.**—*Section 1502 (relating to consoli-*
25 *dated return regulations) is amended by adding at the end*

1 *the following new sentence: “In prescribing such regula-*
2 *tions, the Secretary may prescribe rules applicable to cor-*
3 *porations filing consolidated returns under section 1501*
4 *that are different from other provisions of this title that*
5 *would apply if such corporations filed separate returns.”.*

6 (b) *RESULT NOT OVERTURNED.—Notwithstanding*
7 *subsection (a), the Internal Revenue Code of 1986 shall be*
8 *construed by treating Treasury regulation §1.1502–*
9 *20(c)(1)(iii) (as in effect on January 1, 2001) as being in-*
10 *applicable to the type of factual situation in 255 F.3d 1357*
11 *(Fed. Cir. 2001).*

12 (c) *EFFECTIVE DATE.—The provisions of this section*
13 *shall apply to taxable years beginning before, on, or after*
14 *the date of the enactment of this Act.*

15 **SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER**
16 **RELATING TO FEDERAL ANNUAL CORPORATE**
17 **INCOME TAX RETURN.**

18 (a) *IN GENERAL.—The Federal tax return of a cor-*
19 *poration with respect to income shall also include a declara-*
20 *tion signed by the chief executive officer of such corporation*
21 *(or other such officer of the corporation as the Secretary*
22 *of the Treasury may designate if the corporation does not*
23 *have a chief executive officer), under penalties of perjury,*
24 *that the chief executive officer has established processes and*
25 *procedures that ensure that such return complies with the*

1 *Internal Revenue Code of 1986 and that the chief executive*
2 *officer was provided reasonable assurance of the accuracy*
3 *of all material aspects of such return. The preceding sen-*
4 *tence shall not apply to any return of a regulated invest-*
5 *ment company (within the meaning of section 851 of such*
6 *Code).*

7 **(b) EFFECTIVE DATE.**—*This section shall apply to*
8 *Federal tax returns filed after the date of the enactment*
9 *of this Act.*

10 **SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
11 **PENALTIES, AND OTHER AMOUNTS.**

12 **(a) IN GENERAL.**—*Subsection (f) of section 162 (relat-*
13 *ing to trade or business expenses) is amended to read as*
14 *follows:*

15 **“(f) FINES, PENALTIES, AND OTHER AMOUNTS.**—

16 **“(1) IN GENERAL.**—*Except as provided in para-*
17 *graph (2), no deduction otherwise allowable shall be*
18 *allowed under this chapter for any amount paid or*
19 *incurred (whether by suit, agreement, or otherwise)*
20 *to, or at the direction of, a government or entity de-*
21 *scribed in paragraph (4) in relation to the violation*
22 *of any law or the investigation or inquiry by such*
23 *government or entity into the potential violation of*
24 *any law.*

1 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
2 *RESTITUTION.—Paragraph (1) shall not apply to any*
3 *amount which the taxpayer establishes constitutes res-*
4 *titution for damage or harm caused by the violation*
5 *of any law or the potential violation of any law. This*
6 *paragraph shall not apply to any amount paid or in-*
7 *curring as reimbursement to the government or entity*
8 *for the costs of any investigation or litigation.*

9 “(3) *EXCEPTION FOR AMOUNTS PAID OR IN-*
10 *CURRED AS THE RESULT OF CERTAIN COURT OR-*
11 *DERS.—Paragraph (1) shall not apply to any*
12 *amount paid or incurred by order of a court in a suit*
13 *in which no government or entity described in para-*
14 *graph (4) is a party.*

15 “(4) *CERTAIN NONGOVERNMENTAL REGULATORY*
16 *ENTITIES.—An entity is described in this paragraph*
17 *if it is—*

18 “(A) *a nongovernmental entity which exer-*
19 *cises self-regulatory powers (including imposing*
20 *sanctions) in connection with a qualified board*
21 *or exchange (as defined in section 1256(g)(7)), or*

22 “(B) *to the extent provided in regulations,*
23 *a nongovernmental entity which exercises self-*
24 *regulatory powers (including imposing sanc-*

1 tions) as part of performing an essential govern-
2 mental function.”.

3 (b) *EFFECTIVE DATE.*—The amendment made by this
4 section shall apply to amounts paid or incurred after April
5 27, 2003, except that such amendment shall not apply to
6 amounts paid or incurred under any binding order or
7 agreement entered into on or before April 27, 2003. Such
8 exception shall not apply to an order or agreement requir-
9 ing court approval unless the approval was obtained on or
10 before April 27, 2003.

11 **SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
12 **DAMAGES.**

13 (a) *DISALLOWANCE OF DEDUCTION.*—

14 (1) *IN GENERAL.*—Section 162(g) (relating to
15 treble damage payments under the antitrust laws) is
16 amended by adding at the end the following new
17 paragraph:

18 “(2) *PUNITIVE DAMAGES.*—No deduction shall be
19 allowed under this chapter for any amount paid or
20 incurred for punitive damages in connection with
21 any judgment in, or settlement of, any action. This
22 paragraph shall not apply to punitive damages de-
23 scribed in section 104(c).”.

24 (2) *CONFORMING AMENDMENTS.*—

25 (A) Section 162(g) is amended—

1 (i) by striking “If” and inserting:

2 “(1) *TREBLE DAMAGES.—If*”, and

3 (ii) by redesignating paragraphs (1)
4 and (2) as subparagraphs (A) and (B), re-
5 spectively.

6 (B) The heading for section 162(g) is
7 amended by inserting “OR PUNITIVE DAMAGES”
8 after “LAWS”.

9 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
10 *PAID BY INSURER OR OTHERWISE.—*

11 (1) *IN GENERAL.—Part II of subchapter B of*
12 *chapter 1 (relating to items specifically included in*
13 *gross income) is amended by adding at the end the*
14 *following new section:*

15 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
16 **ANCE OR OTHERWISE.**

17 “Gross income shall include any amount paid to or
18 on behalf of a taxpayer as insurance or otherwise by reason
19 of the taxpayer’s liability (or agreement) to pay punitive
20 damages.”.

21 (2) *REPORTING REQUIREMENTS.—Section 6041*
22 *(relating to information at source) is amended by*
23 *adding at the end the following new subsection:*

24 “(f) *SECTION TO APPLY TO PUNITIVE DAMAGES COM-*
25 *PENSATION.—This section shall apply to payments by a*

1 *person to or on behalf of another person as insurance or*
2 *otherwise by reason of the other person's liability (or agree-*
3 *ment) to pay punitive damages.”.*

4 (3) *CONFORMING AMENDMENT.—The table of sec-*
5 *tions for part II of subchapter B of chapter 1 is*
6 *amended by adding at the end the following new item:*
“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

7 (c) *EFFECTIVE DATE.—The amendments made by this*
8 *section shall apply to damages paid or incurred on or after*
9 *the date of the enactment of this Act.*

10 **SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY**
11 **LIMITATION FOR THE UNDERPAYMENT OR**
12 **OVERPAYMENT OF TAX DUE TO FRAUD.**

13 (a) *IN GENERAL.—Section 7206 (relating to fraud and*
14 *false statements) is amended—*

15 (1) *by striking “Any person who—” and insert-*
16 *ing “(a) IN GENERAL.—Any person who—”, and*

17 (2) *by adding at the end the following new sub-*
18 *section:*

19 *“(b) INCREASE IN MONETARY LIMITATION FOR UN-*
20 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*
21 *If any portion of any underpayment (as defined in section*
22 *6664(a)) or overpayment (as defined in section 6401(a)) of*
23 *tax required to be shown on a return is attributable to*
24 *fraudulent action described in subsection (a), the applicable*
25 *dollar amount under subsection (a) shall in no event be less*

1 *than an amount equal to such portion. A rule similar to*
2 *the rule under section 6663(b) shall apply for purposes of*
3 *determining the portion so attributable.”.*

4 *(b) INCREASE IN PENALTIES.—*

5 *(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section*
6 *7201 is amended—*

7 *(A) by striking “\$100,000” and inserting*
8 *“\$250,000”,*

9 *(B) by striking “\$500,000” and inserting*
10 *“\$1,000,000”, and*

11 *(C) by striking “5 years” and inserting “10*
12 *years”.*

13 *(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY*
14 *INFORMATION, OR PAY TAX.—Section 7203 is amend-*
15 *ed—*

16 *(A) in the first sentence—*

17 *(i) by striking “misdemeanor” and in-*
18 *serting “felony”, and*

19 *(ii) by striking “1 year” and inserting*
20 *“10 years”, and*

21 *(B) by striking the third sentence.*

22 *(3) FRAUD AND FALSE STATEMENTS.—Section*
23 *7206(a) (as redesignated by subsection (a)) is amend-*
24 *ed—*

1 (A) by striking “\$100,000” and inserting
2 “\$250,000”,

3 (B) by striking “\$500,000” and inserting
4 “\$1,000,000”, and

5 (C) by striking “3 years” and inserting “5
6 years”.

7 (c) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to underpayments and overpayments at-
9 tributable to actions occurring after the date of the enact-
10 ment of this Act.

11 **SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
12 **INTEREST ON UNDERPAYMENTS RELATED TO**
13 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
14 **MENTS.**

15 (a) *GENERAL RULE.*—If—

16 (1) a taxpayer eligible to participate in—

17 (A) the Department of the Treasury’s Off-
18 shore Voluntary Compliance Initiative, or

19 (B) the Department of the Treasury’s vol-
20 untary disclosure initiative which applies to the
21 taxpayer by reason of the taxpayer’s under-
22 reporting of United States income tax liability
23 through financial arrangements which rely on
24 the use of offshore arrangements which were the

1 *subject of the initiative described in subpara-*
2 *graph (A), and*

3 (2) *any interest or applicable penalty is imposed*
4 *with respect to any arrangement to which any initia-*
5 *tive described in paragraph (1) applied or to any un-*
6 *derpayment of Federal income tax attributable to*
7 *items arising in connection with any arrangement*
8 *described in paragraph (1),*
9 *then, notwithstanding any other provision of law, the*
10 *amount of such interest or penalty shall be equal to twice*
11 *that determined without regard to this section.*

12 (b) *DEFINITIONS AND RULES.—For purposes of this*
13 *section—*

14 (1) *APPLICABLE PENALTY.—The term “applica-*
15 *ble penalty” means any penalty, addition to tax, or*
16 *fine imposed under chapter 68 of the Internal Rev-*
17 *enue Code of 1986.*

18 (2) *VOLUNTARY OFFSHORE COMPLIANCE INITIA-*
19 *TIVE.—The term “Voluntary Offshore Compliance*
20 *Initiative” means the program established by the De-*
21 *partment of the Treasury in January of 2003 under*
22 *which any taxpayer was eligible to voluntarily dis-*
23 *close previously undisclosed income on assets placed*
24 *in offshore accounts and accessed through credit card*
25 *and other financial arrangements.*

1 (3) *PARTICIPATION.*—*A taxpayer shall be treated*
2 *as having participated in the Voluntary Offshore*
3 *Compliance Initiative if the taxpayer submitted the*
4 *request in a timely manner and all information re-*
5 *quested by the Secretary of the Treasury or his dele-*
6 *gate within a reasonable period of time following the*
7 *request.*

8 (c) *EFFECTIVE DATE.*—*The provisions of this section*
9 *shall apply to interest, penalties, additions to tax, and fines*
10 *with respect to any taxable year if as of the date of the*
11 *enactment of this Act, the assessment of any tax, penalty,*
12 *or interest with respect to such taxable year is not prevented*
13 *by the operation of any law or rule of law.*

14 ***PART IV—ENRON-RELATED TAX SHELTER***

15 ***PROVISIONS***

16 ***SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF***
17 ***BUILT-IN LOSSES.***

18 (a) *IN GENERAL.*—*Section 362 (relating to basis to*
19 *corporations) is amended by adding at the end the following*
20 *new subsection:*

21 “(e) *LIMITATIONS ON BUILT-IN LOSSES.*—

22 “(1) *LIMITATION ON IMPORTATION OF BUILT-IN*
23 *LOSSES.*—

24 “(A) *IN GENERAL.*—*If in any transaction*
25 *described in subsection (a) or (b) there would*

1 *(but for this subsection) be an importation of a*
2 *net built-in loss, the basis of each property de-*
3 *scribed in subparagraph (B) which is acquired*
4 *in such transaction shall (notwithstanding sub-*
5 *sections (a) and (b)) be its fair market value im-*
6 *mediately after such transaction.*

7 “(B) *PROPERTY DESCRIBED.*—*For purposes*
8 *of subparagraph (A), property is described in*
9 *this subparagraph if—*

10 “(i) *gain or loss with respect to such*
11 *property is not subject to tax under this*
12 *subtitle in the hands of the transferor imme-*
13 *diately before the transfer, and*

14 “(ii) *gain or loss with respect to such*
15 *property is subject to such tax in the hands*
16 *of the transferee immediately after such*
17 *transfer.*

18 *In any case in which the transferor is a partner-*
19 *ship, the preceding sentence shall be applied by*
20 *treating each partner in such partnership as*
21 *holding such partner’s proportionate share of the*
22 *property of such partnership.*

23 “(C) *IMPORTATION OF NET BUILT-IN*
24 *LOSS.*—*For purposes of subparagraph (A), there*
25 *is an importation of a net built-in loss in a*

1 *transaction if the transferee's aggregate adjusted*
2 *bases of property described in subparagraph (B)*
3 *which is transferred in such transaction would*
4 *(but for this paragraph) exceed the fair market*
5 *value of such property immediately after such*
6 *transaction."*

7 “(2) *LIMITATION ON TRANSFER OF BUILT-IN*
8 *LOSSES IN SECTION 351 TRANSACTIONS.—*

9 “(A) *IN GENERAL.—If—*

10 “(i) *property is transferred by a trans-*
11 *feror in any transaction which is described*
12 *in subsection (a) and which is not described*
13 *in paragraph (1) of this subsection, and*

14 “(ii) *the transferee's aggregate adjusted*
15 *bases of such property so transferred would*
16 *(but for this paragraph) exceed the fair*
17 *market value of such property immediately*
18 *after such transaction,*

19 *then, notwithstanding subsection (a), the trans-*
20 *feree's aggregate adjusted bases of the property so*
21 *transferred shall not exceed the fair market value*
22 *of such property immediately after such trans-*
23 *action.*

24 “(B) *ALLOCATION OF BASIS REDUCTION.—*

25 *The aggregate reduction in basis by reason of*

1 *subparagraph (A) shall be allocated among the*
2 *property so transferred in proportion to their re-*
3 *spective built-in losses immediately before the*
4 *transaction.*

5 “(C) *EXCEPTION FOR TRANSFERS WITHIN*
6 *AFFILIATED GROUP.—Subparagraph (A) shall*
7 *not apply to any transaction if the transferor*
8 *owns stock in the transferee meeting the require-*
9 *ments of section 1504(a)(2). In the case of prop-*
10 *erty to which subparagraph (A) does not apply*
11 *by reason of the preceding sentence, the trans-*
12 *feror’s basis in the stock received for such prop-*
13 *erty shall not exceed its fair market value imme-*
14 *diately after the transfer.”.*

15 (b) *COMPARABLE TREATMENT WHERE LIQUIDA-*
16 *TION.—Paragraph (1) of section 334(b) (relating to liquida-*
17 *tion of subsidiary) is amended to read as follows:*

18 “(1) *IN GENERAL.—If property is received by a*
19 *corporate distributee in a distribution in a complete*
20 *liquidation to which section 332 applies (or in a*
21 *transfer described in section 337(b)(1)), the basis of*
22 *such property in the hands of such distributee shall*
23 *be the same as it would be in the hands of the trans-*
24 *feror; except that the basis of such property in the*

1 *hands of such distributee shall be the fair market*
2 *value of the property at the time of the distribution—*

3 *“(A) in any case in which gain or loss is*
4 *recognized by the liquidating corporation with*
5 *respect to such property, or*

6 *“(B) in any case in which the liquidating*
7 *corporation is a foreign corporation, the cor-*
8 *porate distributee is a domestic corporation, and*
9 *the corporate distributee’s aggregate adjusted*
10 *bases of property described in section*
11 *362(e)(1)(B) which is distributed in such liq-*
12 *uidation would (but for this subparagraph) ex-*
13 *ceed the fair market value of such property im-*
14 *mediately after such liquidation.”.*

15 *(c) EFFECTIVE DATE.—The amendments made by this*
16 *section shall apply to transactions after February 13, 2003.*

17 **SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
18 **STOCK HELD BY PARTNERSHIP IN COR-**
19 **PORATE PARTNER.**

20 *(a) IN GENERAL.—Section 755 is amended by adding*
21 *at the end the following new subsection:*

22 *“(c) NO ALLOCATION OF BASIS DECREASE TO STOCK*
23 *OF CORPORATE PARTNER.—In making an allocation under*
24 *subsection (a) of any decrease in the adjusted basis of part-*
25 *nership property under section 734(b)—*

1 “(1) no allocation may be made to stock in a
2 corporation (or any person which is related (within
3 the meaning of section 267(b) or 707(b)(1)) to such
4 corporation) which is a partner in the partnership,
5 and

6 “(2) any amount not allocable to stock by reason
7 of paragraph (1) shall be allocated under subsection
8 (a) to other partnership property in such manner as
9 the Secretary may prescribe.

10 Gain shall be recognized to the partnership to the extent
11 that the amount required to be allocated under paragraph
12 (2) to other partnership property exceeds the aggregate ad-
13 justed basis of such other property immediately before the
14 allocation required by paragraph (2).”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this
16 section shall apply to distributions after February 13, 2003.

17 **SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.**

18 (a) *IN GENERAL.*—Part V of subchapter M of chapter
19 1 (relating to financial asset securitization investment
20 trusts) is hereby repealed.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) Paragraph (6) of section 56(g) is amended by
23 striking “REMIC, or FASIT” and inserting “or
24 REMIC”.

1 (2) *Clause (ii) of section 382(l)(4)(B) is amended*
2 *by striking “a REMIC to which part IV of subchapter*
3 *M applies, or a FASIT to which part V of subchapter*
4 *M applies,” and inserting “or a REMIC to which*
5 *part IV of subchapter M applies.”*

6 (3) *Paragraph (1) of section 582(c) is amended*
7 *by striking “, and any regular interest in a FASIT,”.*

8 (4) *Subparagraph (E) of section 856(c)(5) is*
9 *amended by striking the last sentence.*

10 (5)(A) *Section 860G(a)(1) is amended by adding*
11 *at the end the following new sentence: “An interest*
12 *shall not fail to qualify as a regular interest solely be-*
13 *cause the specified principal amount of the regular*
14 *interest (or the amount of interest accrued on the reg-*
15 *ular interest) can be reduced as a result of the non-*
16 *occurrence of 1 or more contingent payments with re-*
17 *spect to any reverse mortgage loan held by the*
18 *REMIC if, on the startup day for the REMIC, the*
19 *sponsor reasonably believes that all principal and in-*
20 *terest due under the regular interest will be paid at*
21 *or prior to the liquidation of the REMIC.”.*

22 (B) *The last sentence of section 860G(a)(3) is*
23 *amended by inserting “, and any reverse mortgage*
24 *loan (and each balance increase on such loan meeting*
25 *the requirements of subparagraph (A)(iii)) shall be*

1 *treated as an obligation secured by an interest in real*
2 *property” before the period at the end.*

3 (6) *Paragraph (3) of section 860G(a) is amended*
4 *by adding “and” at the end of subparagraph (B), by*
5 *striking “, and” at the end of subparagraph (C) and*
6 *inserting a period, and by striking subparagraph (D).*

7 (7) *Section 860G(a)(3), as amended by para-*
8 *graph (6), is amended by adding at the end the fol-*
9 *lowing new sentence: “For purposes of subparagraph*
10 *(A), if more than 50 percent of the obligations trans-*
11 *ferred to, or purchased by, the REMIC are originated*
12 *by the United States or any State (or any political*
13 *subdivision, agency, or instrumentality of the United*
14 *States or any State) and are principally secured by*
15 *an interest in real property, then each obligation*
16 *transferred to, or purchased by, the REMIC shall be*
17 *treated as secured by an interest in real property.”.*

18 (8)(A) *Section 860G(a)(3)(A) is amended by*
19 *striking “or” at the end of clause (i), by inserting*
20 *“or” at the end of clause (ii), and by inserting after*
21 *clause (ii) the following new clause:*

22 *“(iii) represents an increase in the*
23 *principal amount under the original terms*
24 *of an obligation described in clause (i) or*
25 *(ii) if such increase—*

1 “(I) is attributable to an advance
2 made to the obligor pursuant to the
3 original terms of the obligation,

4 “(II) occurs after the startup day,
5 and

6 “(III) is purchased by the REMIC
7 pursuant to a fixed price contract in
8 effect on the startup day.”.

9 (B) Section 860G(a)(7)(B) is amended to read as
10 follows:

11 “(B) QUALIFIED RESERVE FUND.—For pur-
12 poses of subparagraph (A), the term ‘qualified
13 reserve fund’ means any reasonably required re-
14 serve to—

15 “(i) provide for full payment of ex-
16 penses of the REMIC or amounts due on
17 regular interests in the event of defaults on
18 qualified mortgages or lower than expected
19 returns on cash flow investments, or

20 “(ii) provide a source of funds for the
21 purchase of obligations described in clause
22 (ii) or (iii) of paragraph (3)(A).

23 The aggregate fair market value of the assets held
24 in any such reserve shall not exceed 50 percent
25 of the aggregate fair market value of all of the

1 *assets of the REMIC on the startup day, and the*
2 *amount of any such reserve shall be promptly*
3 *and appropriately reduced to the extent the*
4 *amount held in such reserve is no longer reason-*
5 *ably required for purposes specified in clause (i)*
6 *or (ii) of paragraph (3)(A).”.*

7 (9) *Subparagraph (C) of section 1202(e)(4) is*
8 *amended by striking “REMIC, or FASIT” and in-*
9 *serting “or REMIC”.*

10 (10) *Clause (xi) of section 7701(a)(19)(C) is*
11 *amended—*

12 (A) *by striking “and any regular interest in*
13 *a FASIT,” and*

14 (B) *by striking “or FASIT” each place it*
15 *appears.*

16 (11) *The table of parts for subchapter M of chap-*
17 *ter 1 is amended by striking the item relating to part*
18 *V.*

19 (c) *EFFECTIVE DATE.—*

20 (1) *IN GENERAL.—Except as provided in para-*
21 *graph (2), the amendments made by this section shall*
22 *take effect on February 14, 2003.*

23 (2) *EXCEPTION FOR EXISTING FASITS.—Para-*
24 *graph (1) shall not apply to any FASIT in existence*
25 *on the date of the enactment of this Act to the extent*

1 *by subsection (b), is amended by redesignating paragraphs*
2 *(5) and (6) as paragraphs (6) and (7) and by inserting*
3 *after paragraph (4) the following new paragraph:*

4 “(5) *EXCEPTION FOR CERTAIN INSTRUMENTS*
5 *ISSUED BY DEALERS IN SECURITIES.—For purposes*
6 *of this subsection, the term ‘disqualified debt instru-*
7 *ment’ does not include indebtedness issued by a dealer*
8 *in securities (or a related party) which is payable in,*
9 *or by reference to, equity (other than equity of the*
10 *issuer or a related party) held by such dealer in its*
11 *capacity as a dealer in securities. For purposes of*
12 *this paragraph, the term ‘dealer in securities’ has the*
13 *meaning given such term by section 475.”.*

14 (c) *CONFORMING AMENDMENTS.—Paragraph (3) of*
15 *section 163(l) is amended—*

16 (1) *by striking “or a related party” in the mate-*
17 *rial preceding subparagraph (A) and inserting “or*
18 *any other person”, and*

19 (2) *by striking “or interest” each place it ap-*
20 *pears.*

21 (d) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to debt instruments issued after Feb-*
23 *ruary 13, 2003.*

1 **SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
2 **FITS UNDER SECTION 269.**

3 (a) *IN GENERAL.*—Subsection (a) of section 269 (relat-
4 ing to acquisitions made to evade or avoid income tax) is
5 amended to read as follows:

6 “(a) *IN GENERAL.*—If—

7 “(1)(A) any person or persons acquire, directly
8 or indirectly, control of a corporation, or

9 “(B) any corporation acquires, directly or indi-
10 rectly, property of another corporation and the basis
11 of such property, in the hands of the acquiring cor-
12 poration, is determined by reference to the basis in
13 the hands of the transferor corporation, and

14 “(2) the principal purpose for which such acqui-
15 sition was made is evasion or avoidance of Federal
16 income tax,

17 then the Secretary may disallow such deduction, credit, or
18 other allowance. For purposes of paragraph (1)(A), control
19 means the ownership of stock possessing at least 50 percent
20 of the total combined voting power of all classes of stock
21 entitled to vote or at least 50 percent of the total value of
22 all shares of all classes of stock of the corporation.”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 section shall apply to stock and property acquired after
25 February 13, 2003.

1 **SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUB-**
2 **PART F AND PASSIVE FOREIGN INVESTMENT**
3 **COMPANY RULES.**

4 (a) *LIMITATION ON EXCEPTION FROM PFIC RULES*
5 *FOR UNITED STATES SHAREHOLDERS OF CONTROLLED*
6 *FOREIGN CORPORATIONS.*—Paragraph (2) of section
7 1297(e) (relating to passive foreign investment company)
8 is amended by adding at the end the following flush sen-
9 tence:

10 “Such term shall not include any period if the
11 earning of subpart F income by such corporation
12 during such period would result in only a remote
13 likelihood of an inclusion in gross income under
14 section 951(a)(1)(A)(i).”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this
16 section shall apply to taxable years of controlled foreign cor-
17 porations beginning after February 13, 2003, and to tax-
18 able years of United States shareholders with or within
19 which such taxable years of controlled foreign corporations
20 end.

1 **PART V—PROVISIONS TO DISCOURAGE**
2 **EXPATRIATION**

3 **SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE EN-**
4 **TITIES.**

5 *(a) IN GENERAL.—Subchapter C of chapter 80 (relat-*
6 *ing to provisions affecting more than one subtitle) is*
7 *amended by adding at the end the following new section:*

8 **“SEC. 7874. RULES RELATING TO INVERTED CORPORATE**
9 **ENTITIES.**

10 *“(a) INVERTED CORPORATIONS TREATED AS DOMES-*
11 *TIC CORPORATIONS.—*

12 *“(1) IN GENERAL.—If a foreign incorporated en-*
13 *tity is treated as an inverted domestic corporation,*
14 *then, notwithstanding section 7701(a)(4), such entity*
15 *shall be treated for purposes of this title as a domestic*
16 *corporation.*

17 *“(2) INVERTED DOMESTIC CORPORATION.—For*
18 *purposes of this section, a foreign incorporated entity*
19 *shall be treated as an inverted domestic corporation*
20 *if, pursuant to a plan (or a series of related trans-*
21 *actions)—*

22 *“(A) the entity completes after March 20,*
23 *2002, the direct or indirect acquisition of sub-*
24 *stantially all of the properties held directly or*
25 *indirectly by a domestic corporation or substan-*

1 *tially all of the properties constituting a trade or*
2 *business of a domestic partnership,*

3 “(B) *after the acquisition at least 80 per-*
4 *cent of the stock (by vote or value) of the entity*
5 *is held—*

6 “(i) *in the case of an acquisition with*
7 *respect to a domestic corporation, by former*
8 *shareholders of the domestic corporation by*
9 *reason of holding stock in the domestic cor-*
10 *poration, or*

11 “(ii) *in the case of an acquisition with*
12 *respect to a domestic partnership, by former*
13 *partners of the domestic partnership by rea-*
14 *son of holding a capital or profits interest*
15 *in the domestic partnership, and*

16 “(C) *the expanded affiliated group which*
17 *after the acquisition includes the entity does not*
18 *have substantial business activities in the foreign*
19 *country in which or under the law of which the*
20 *entity is created or organized when compared to*
21 *the total business activities of such expanded af-*
22 *filiated group.*

23 *Except as provided in regulations, an acquisition of*
24 *properties of a domestic corporation shall not be*
25 *treated as described in subparagraph (A) if none of*

1 *the corporation's stock was readily tradeable on an es-*
2 *tablished securities market at any time during the 4-*
3 *year period ending on the date of the acquisition.*

4 *“(b) PRESERVATION OF DOMESTIC TAX BASE IN CER-*
5 *TAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION*
6 *(a) DOES NOT APPLY.—*

7 *“(1) IN GENERAL.—If a foreign incorporated en-*
8 *tity would be treated as an inverted domestic corpora-*
9 *tion with respect to an acquired entity if either—*

10 *“(A) subsection (a)(2)(A) were applied by*
11 *substituting ‘after December 31, 1996, and on or*
12 *before March 20, 2002’ for ‘after March 20, 2002’*
13 *and subsection (a)(2)(B) were applied by sub-*
14 *stituting ‘more than 50 percent’ for ‘at least 80*
15 *percent’, or*

16 *“(B) subsection (a)(2)(B) were applied by*
17 *substituting ‘more than 50 percent’ for ‘at least*
18 *80 percent’,*

19 *then the rules of subsection (c) shall apply to any in-*
20 *version gain of the acquired entity during the appli-*
21 *cable period and the rules of subsection (d) shall*
22 *apply to any related party transaction of the ac-*
23 *quired entity during the applicable period. This sub-*
24 *section shall not apply for any taxable year if sub-*

1 *section (a) applies to such foreign incorporated entity*
2 *for such taxable year.*

3 *“(2) ACQUIRED ENTITY.—For purposes of this*
4 *section—*

5 *“(A) IN GENERAL.—The term ‘acquired en-*
6 *tity’ means the domestic corporation or partner-*
7 *ship substantially all of the properties of which*
8 *are directly or indirectly acquired in an acquisi-*
9 *tion described in subsection (a)(2)(A) to which*
10 *this subsection applies.*

11 *“(B) AGGREGATION RULES.—Any domestic*
12 *person bearing a relationship described in sec-*
13 *tion 267(b) or 707(b) to an acquired entity shall*
14 *be treated as an acquired entity with respect to*
15 *the acquisition described in subparagraph (A).*

16 *“(3) APPLICABLE PERIOD.—For purposes of this*
17 *section—*

18 *“(A) IN GENERAL.—The term ‘applicable*
19 *period’ means the period—*

20 *“(i) beginning on the first date prop-*
21 *erties are acquired as part of the acquisi-*
22 *tion described in subsection (a)(2)(A) to*
23 *which this subsection applies, and*

1 “(ii) ending on the date which is 10
2 years after the last date properties are ac-
3 quired as part of such acquisition.

4 “(B) SPECIAL RULE FOR INVERSIONS OC-
5 CURRING BEFORE MARCH 21, 2002.—In the case
6 of any acquired entity to which paragraph
7 (1)(A) applies, the applicable period shall be the
8 10-year period beginning on January 1, 2003.

9 “(c) TAX ON INVERSION GAINS MAY NOT BE OFF-
10 SET.—If subsection (b) applies—

11 “(1) IN GENERAL.—The taxable income of an ac-
12 quired entity (or any expanded affiliated group which
13 includes such entity) for any taxable year which in-
14 cludes any portion of the applicable period shall in
15 no event be less than the inversion gain of the entity
16 for the taxable year.

17 “(2) CREDITS NOT ALLOWED AGAINST TAX ON IN-
18 VERSION GAIN.—Credits shall be allowed against the
19 tax imposed by this chapter on an acquired entity for
20 any taxable year described in paragraph (1) only to
21 the extent such tax exceeds the product of—

22 “(A) the amount of the inversion gain for
23 the taxable year, and

24 “(B) the highest rate of tax specified in sec-
25 tion 11(b)(1).

1 *For purposes of determining the credit allowed by sec-*
2 *tion 901 inversion gain shall be treated as from*
3 *sources within the United States.*

4 “(3) *SPECIAL RULES FOR PARTNERSHIPS.—In*
5 *the case of an acquired entity which is a partner-*
6 *ship—*

7 “(A) *the limitations of this subsection shall*
8 *apply at the partner rather than the partnership*
9 *level,*

10 “(B) *the inversion gain of any partner for*
11 *any taxable year shall be equal to the sum of—*

12 “(i) *the partner’s distributive share of*
13 *inversion gain of the partnership for such*
14 *taxable year, plus*

15 “(ii) *income or gain required to be rec-*
16 *ognized for the taxable year by the partner*
17 *under section 367(a), 741, or 1001, or*
18 *under any other provision of chapter 1, by*
19 *reason of the transfer during the applicable*
20 *period of any partnership interest of the*
21 *partner in such partnership to the foreign*
22 *incorporated entity, and*

23 “(C) *the highest rate of tax specified in the*
24 *rate schedule applicable to the partner under*

1 *chapter 1 shall be substituted for the rate of tax*
2 *under paragraph (2)(B).*

3 “(4) *INVERSION GAIN.*—*For purposes of this sec-*
4 *tion, the term ‘inversion gain’ means any income or*
5 *gain required to be recognized under section 304,*
6 *311(b), 367, 1001, or 1248, or under any other provi-*
7 *sion of chapter 1, by reason of the transfer during the*
8 *applicable period of stock or other properties by an*
9 *acquired entity—*

10 “(A) *as part of the acquisition described in*
11 *subsection (a)(2)(A) to which subsection (b) ap-*
12 *plies, or*

13 “(B) *after such acquisition to a foreign re-*
14 *lated person.*

15 *The Secretary may provide that income or gain from*
16 *the sale of inventories or other transactions in the or-*
17 *inary course of a trade or business shall not be treat-*
18 *ed as inversion gain under subparagraph (B) to the*
19 *extent the Secretary determines such treatment would*
20 *not be inconsistent with the purposes of this section.*

21 “(5) *COORDINATION WITH SECTION 172 AND MIN-*
22 *IMUM TAX.*—*Rules similar to the rules of paragraphs*
23 *(3) and (4) of section 860E(a) shall apply for pur-*
24 *poses of this section.*

25 “(6) *STATUTE OF LIMITATIONS.*—

1 “(A) *IN GENERAL.*—*The statutory period*
2 *for the assessment of any deficiency attributable*
3 *to the inversion gain of any taxpayer for any*
4 *pre-inversion year shall not expire before the ex-*
5 *piration of 3 years from the date the Secretary*
6 *is notified by the taxpayer (in such manner as*
7 *the Secretary may prescribe) of the acquisition*
8 *described in subsection (a)(2)(A) to which such*
9 *gain relates and such deficiency may be assessed*
10 *before the expiration of such 3-year period not-*
11 *withstanding the provisions of any other law or*
12 *rule of law which would otherwise prevent such*
13 *assessment.*

14 “(B) *PRE-INVERSION YEAR.*—*For purposes*
15 *of subparagraph (A), the term ‘pre-inversion*
16 *year’ means any taxable year if—*

17 “(i) *any portion of the applicable pe-*
18 *riod is included in such taxable year, and*

19 “(ii) *such year ends before the taxable*
20 *year in which the acquisition described in*
21 *subsection (a)(2)(A) is completed.*

22 “(d) *SPECIAL RULES APPLICABLE TO ACQUIRED EN-*
23 *TITIES TO WHICH SUBSECTION (B) APPLIES.*—

1 “(1) *INCREASES IN ACCURACY-RELATED PEN-*
2 *ALTIES.—In the case of any underpayment of tax of*
3 *an acquired entity to which subsection (b) applies—*

4 “(A) *section 6662(a) shall be applied with*
5 *respect to such underpayment by substituting ‘30*
6 *percent’ for ‘20 percent’, and*

7 “(B) *if such underpayment is attributable*
8 *to one or more gross valuation understatements,*
9 *the increase in the rate of penalty under section*
10 *6662(h) shall be to 50 percent rather than 40*
11 *percent.*

12 “(2) *MODIFICATIONS OF LIMITATION ON INTER-*
13 *EST DEDUCTION.—In the case of an acquired entity*
14 *to which subsection (b) applies, section 163(j) shall be*
15 *applied—*

16 “(A) *without regard to paragraph (2)(A)(ii)*
17 *thereof, and*

18 “(B) *by substituting ‘25 percent’ for ‘50*
19 *percent’ each place it appears in paragraph*
20 *(2)(B) thereof.*

21 “(e) *OTHER DEFINITIONS AND SPECIAL RULES.—For*
22 *purposes of this section—*

23 “(1) *RULES FOR APPLICATION OF SUBSECTION*
24 *(a)(2).—In applying subsection (a)(2) for purposes of*

1 *subsections (a) and (b), the following rules shall*
2 *apply:*

3 “(A) *CERTAIN STOCK DISREGARDED.—*

4 *There shall not be taken into account in deter-*
5 *mining ownership for purposes of subsection*
6 *(a)(2)(B)—*

7 “(i) *stock held by members of the ex-*
8 *panded affiliated group which includes the*
9 *foreign incorporated entity, or*

10 “(ii) *stock of such entity which is sold*
11 *in a public offering or private placement re-*
12 *lated to the acquisition described in sub-*
13 *section (a)(2)(A).*

14 “(B) *PLAN DEEMED IN CERTAIN CASES.—If*
15 *a foreign incorporated entity acquires directly or*
16 *indirectly substantially all of the properties of a*
17 *domestic corporation or partnership during the*
18 *4-year period beginning on the date which is 2*
19 *years before the ownership requirements of sub-*
20 *section (a)(2)(B) are met with respect to such do-*
21 *mestic corporation or partnership, such actions*
22 *shall be treated as pursuant to a plan.*

23 “(C) *CERTAIN TRANSFERS DISREGARDED.—*

24 *The transfer of properties or liabilities (includ-*
25 *ing by contribution or distribution) shall be dis-*

1 *regarded if such transfers are part of a plan a*
2 *principal purpose of which is to avoid the pur-*
3 *poses of this section.*

4 “(D) *SPECIAL RULE FOR RELATED PART-*
5 *NERSHIPS.—For purposes of applying subsection*
6 *(a)(2) to the acquisition of a domestic partner-*
7 *ship, except as provided in regulations, all part-*
8 *nerships which are under common control (with-*
9 *in the meaning of section 482) shall be treated*
10 *as 1 partnership.*

11 “(E) *TREATMENT OF CERTAIN RIGHTS.—*
12 *The Secretary shall prescribe such regulations as*
13 *may be necessary—*

14 “(i) *to treat warrants, options, con-*
15 *tracts to acquire stock, convertible debt in-*
16 *struments, and other similar interests as*
17 *stock, and*

18 “(ii) *to treat stock as not stock.*

19 “(2) *EXPANDED AFFILIATED GROUP.—The term*
20 *‘expanded affiliated group’ means an affiliated group*
21 *as defined in section 1504(a) but without regard to*
22 *section 1504(b)(3), except that section 1504(a) shall*
23 *be applied by substituting ‘more than 50 percent’ for*
24 *‘at least 80 percent’ each place it appears.*

1 “(3) *FOREIGN INCORPORATED ENTITY.*—*The*
2 *term ‘foreign incorporated entity’ means any entity*
3 *which is, or but for subsection (a)(1) would be, treated*
4 *as a foreign corporation for purposes of this title.*

5 “(4) *FOREIGN RELATED PERSON.*—*The term ‘for-*
6 *foreign related person’ means, with respect to any ac-*
7 *quired entity, a foreign person which—*

8 “(A) *bears a relationship to such entity de-*
9 *scribed in section 267(b) or 707(b), or*

10 “(B) *is under the same common control*
11 *(within the meaning of section 482) as such enti-*
12 *ty.*

13 “(5) *SUBSEQUENT ACQUISITIONS BY UNRELATED*
14 *DOMESTIC CORPORATIONS.*—

15 “(A) *IN GENERAL.*—*Subject to such condi-*
16 *tions, limitations, and exceptions as the Sec-*
17 *retary may prescribe, if, after an acquisition de-*
18 *scribed in subsection (a)(2)(A) to which sub-*
19 *section (b) applies, a domestic corporation stock*
20 *of which is traded on an established securities*
21 *market acquires directly or indirectly any prop-*
22 *erties of one or more acquired entities in a*
23 *transaction with respect to which the require-*
24 *ments of subparagraph (B) are met, this section*

1 *shall cease to apply to any such acquired entity*
2 *with respect to which such requirements are met.*

3 “(B) *REQUIREMENTS.*—*The requirements of*
4 *the subparagraph are met with respect to a*
5 *transaction involving any acquisition described*
6 *in subparagraph (A) if—*

7 “(i) *before such transaction the domes-*
8 *tic corporation did not have a relationship*
9 *described in section 267(b) or 707(b), and*
10 *was not under common control (within the*
11 *meaning of section 482), with the acquired*
12 *entity, or any member of an expanded af-*
13 *iliated group including such entity, and*

14 “(ii) *after such transaction, such ac-*
15 *quired entity—*

16 “(I) *is a member of the same ex-*
17 *anded affiliated group which includes*
18 *the domestic corporation or has such a*
19 *relationship or is under such common*
20 *control with any member of such*
21 *group, and*

22 “(II) *is not a member of, and does*
23 *not have such a relationship and is not*
24 *under such common control with any*
25 *member of, the expanded affiliated*

1 *group which before such acquisition in-*
2 *cluded such entity.*

3 “(f) *REGULATIONS.*—*The Secretary shall provide such*
4 *regulations as are necessary to carry out this section, in-*
5 *cluding regulations providing for such adjustments to the*
6 *application of this section as are necessary to prevent the*
7 *avoidance of the purposes of this section, including the*
8 *avoidance of such purposes through—*

9 “(1) *the use of related persons, pass-thru or other*
10 *noncorporate entities, or other intermediaries, or*

11 “(2) *transactions designed to have persons cease*
12 *to be (or not become) members of expanded affiliated*
13 *groups or related persons.*”.

14 “(b) *INFORMATION REPORTING.*—*The Secretary of the*
15 *Treasury shall exercise the Secretary’s authority under the*
16 *Internal Revenue Code of 1986 to require entities involved*
17 *in transactions to which section 7874 of such Code (as*
18 *added by subsection (a)) applies to report to the Secretary,*
19 *shareholders, partners, and such other persons as the Sec-*
20 *retary may prescribe such information as is necessary to*
21 *ensure the proper tax treatment of such transactions.*

22 “(c) *CONFORMING AMENDMENT.*—*The table of sections*
23 *for subchapter C of chapter 80 is amended by adding at*
24 *the end the following new item:*

 “*Sec. 7874. Rules relating to inverted corporate entities.*”.

1 (d) *TRANSITION RULE FOR CERTAIN REGULATED IN-*
2 *VESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.*—
3 *Notwithstanding section 7874 of the Internal Revenue Code*
4 *of 1986 (as added by subsection (a)), a regulated investment*
5 *company, or other pooled fund or trust specified by the Sec-*
6 *retary of the Treasury, may elect to recognize gain by rea-*
7 *son of section 367(a) of such Code with respect to a trans-*
8 *action under which a foreign incorporated entity is treated*
9 *as an inverted domestic corporation under section 7874(a)*
10 *of such Code by reason of an acquisition completed after*
11 *March 20, 2002, and before January 1, 2004.*

12 **SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDI-**
13 **VIDUALS WHO EXPATRIATE.**

14 (a) *IN GENERAL.*—*Subpart A of part II of subchapter*
15 *N of chapter 1 is amended by inserting after section 877*
16 *the following new section:*

17 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

18 “(a) *GENERAL RULES.*—*For purposes of this sub-*
19 *title—*

20 “(1) *MARK TO MARKET.*—*Except as provided in*
21 *subsections (d) and (f), all property of a covered expa-*
22 *triate to whom this section applies shall be treated as*
23 *sold on the day before the expatriation date for its*
24 *fair market value.*

1 “(2) *RECOGNITION OF GAIN OR LOSS.*—*In the*
2 *case of any sale under paragraph (1)*—

3 “(A) *notwithstanding any other provision of*
4 *this title, any gain arising from such sale shall*
5 *be taken into account for the taxable year of the*
6 *sale, and*

7 “(B) *any loss arising from such sale shall*
8 *be taken into account for the taxable year of the*
9 *sale to the extent otherwise provided by this title,*
10 *except that section 1091 shall not apply to any*
11 *such loss.*

12 *Proper adjustment shall be made in the amount of*
13 *any gain or loss subsequently realized for gain or loss*
14 *taken into account under the preceding sentence.*

15 “(3) *EXCLUSION FOR CERTAIN GAIN.*—

16 “(A) *IN GENERAL.*—*The amount which, but*
17 *for this paragraph, would be includible in the*
18 *gross income of any individual by reason of this*
19 *section shall be reduced (but not below zero) by*
20 *\$600,000. For purposes of this paragraph, allo-*
21 *cable expatriation gain taken into account under*
22 *subsection (f)(2) shall be treated in the same*
23 *manner as an amount required to be includible*
24 *in gross income.*

25 “(B) *COST-OF-LIVING ADJUSTMENT.*—

1 “(i) *IN GENERAL.*—*In the case of an*
2 *expatriation date occurring in any calendar*
3 *year after 2004, the \$600,000 amount under*
4 *subparagraph (A) shall be increased by an*
5 *amount equal to—*

6 “(I) *such dollar amount, multi-*
7 *plied by*

8 “(II) *the cost-of-living adjustment*
9 *determined under section 1(f)(3) for*
10 *such calendar year, determined by sub-*
11 *stituting ‘calendar year 2003’ for ‘cal-*
12 *endar year 1992’ in subparagraph (B)*
13 *thereof.*

14 “(ii) *ROUNDING RULES.*—*If any*
15 *amount after adjustment under clause (i) is*
16 *not a multiple of \$1,000, such amount shall*
17 *be rounded to the next lower multiple of*
18 *\$1,000.*

19 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
20 *UNITED STATES CITIZEN.—*

21 “(A) *IN GENERAL.*—*If a covered expatriate*
22 *elects the application of this paragraph—*

23 “(i) *this section (other than this para-*
24 *graph and subsection (i)) shall not apply to*
25 *the expatriate, but*

1 “(ii) in the case of property to which
2 this section would apply but for such elec-
3 tion, the expatriate shall be subject to tax
4 under this title in the same manner as if
5 the individual were a United States citizen.

6 “(B) *REQUIREMENTS.*—Subparagraph (A)
7 shall not apply to an individual unless the indi-
8 vidual—

9 “(i) provides security for payment of
10 tax in such form and manner, and in such
11 amount, as the Secretary may require,

12 “(ii) consents to the waiver of any
13 right of the individual under any treaty of
14 the United States which would preclude as-
15 sessment or collection of any tax which may
16 be imposed by reason of this paragraph,
17 and

18 “(iii) complies with such other require-
19 ments as the Secretary may prescribe.

20 “(C) *ELECTION.*—An election under sub-
21 paragraph (A) shall apply to all property to
22 which this section would apply but for the elec-
23 tion and, once made, shall be irrevocable. Such
24 election shall also apply to property the basis of
25 which is determined in whole or in part by ref-

1 *erence to the property with respect to which the*
2 *election was made.*

3 “(b) *ELECTION TO DEFER TAX.*—

4 “(1) *IN GENERAL.*—*If the taxpayer elects the ap-*
5 *plication of this subsection with respect to any prop-*
6 *erty treated as sold by reason of subsection (a), the*
7 *payment of the additional tax attributable to such*
8 *property shall be postponed until the due date of the*
9 *return for the taxable year in which such property is*
10 *disposed of (or, in the case of property disposed of in*
11 *a transaction in which gain is not recognized in*
12 *whole or in part, until such other date as the Sec-*
13 *retary may prescribe).*

14 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
15 *PROPERTY.*—*For purposes of paragraph (1), the addi-*
16 *tional tax attributable to any property is an amount*
17 *which bears the same ratio to the additional tax im-*
18 *posed by this chapter for the taxable year solely by*
19 *reason of subsection (a) as the gain taken into ac-*
20 *count under subsection (a) with respect to such prop-*
21 *erty bears to the total gain taken into account under*
22 *subsection (a) with respect to all property to which*
23 *subsection (a) applies.*

24 “(3) *TERMINATION OF POSTPONEMENT.*—*No tax*
25 *may be postponed under this subsection later than the*

1 *due date for the return of tax imposed by this chapter*
2 *for the taxable year which includes the date of death*
3 *of the expatriate (or, if earlier, the time that the secu-*
4 *rity provided with respect to the property fails to*
5 *meet the requirements of paragraph (4), unless the*
6 *taxpayer corrects such failure within the time speci-*
7 *fied by the Secretary).*

8 “(4) SECURITY.—

9 “(A) IN GENERAL.—*No election may be*
10 *made under paragraph (1) with respect to any*
11 *property unless adequate security is provided to*
12 *the Secretary with respect to such property.*

13 “(B) ADEQUATE SECURITY.—*For purposes*
14 *of subparagraph (A), security with respect to*
15 *any property shall be treated as adequate secu-*
16 *rity if—*

17 “(i) *it is a bond in an amount equal*
18 *to the deferred tax amount under paragraph*
19 *(2) for the property, or*

20 “(ii) *the taxpayer otherwise establishes*
21 *to the satisfaction of the Secretary that the*
22 *security is adequate.*

23 “(5) WAIVER OF CERTAIN RIGHTS.—*No election*
24 *may be made under paragraph (1) unless the tax-*
25 *payer consents to the waiver of any right under any*

1 *treaty of the United States which would preclude as-*
2 *essment or collection of any tax imposed by reason*
3 *of this section.*

4 “(6) *ELECTIONS.*—*An election under paragraph*
5 *(1) shall only apply to property described in the elec-*
6 *tion and, once made, is irrevocable. An election may*
7 *be made under paragraph (1) with respect to an in-*
8 *terest in a trust with respect to which gain is re-*
9 *quired to be recognized under subsection (f)(1).*

10 “(7) *INTEREST.*—*For purposes of section 6601—*

11 “(A) *the last date for the payment of tax*
12 *shall be determined without regard to the election*
13 *under this subsection, and*

14 “(B) *section 6621(a)(2) shall be applied by*
15 *substituting ‘5 percentage points’ for ‘3 percent-*
16 *age points’ in subparagraph (B) thereof.*

17 “(c) *COVERED EXPATRIATE.*—*For purposes of this sec-*
18 *tion—*

19 “(1) *IN GENERAL.*—*Except as provided in para-*
20 *graph (2), the term ‘covered expatriate’ means an ex-*
21 *patriate.*

22 “(2) *EXCEPTIONS.*—*An individual shall not be*
23 *treated as a covered expatriate if—*

24 “(A) *the individual—*

1 “(i) became at birth a citizen of the
2 United States and a citizen of another
3 country and, as of the expatriation date,
4 continues to be a citizen of, and is taxed as
5 a resident of, such other country, and

6 “(ii) has not been a resident of the
7 United States (as defined in section
8 7701(b)(1)(A)(ii)) during the 5 taxable
9 years ending with the taxable year during
10 which the expatriation date occurs, or

11 “(B)(i) the individual’s relinquishment of
12 United States citizenship occurs before such indi-
13 vidual attains age 18½, and

14 “(ii) the individual has been a resident of
15 the United States (as so defined) for not more
16 than 5 taxable years before the date of relin-
17 quishment.

18 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
19 *SION PLANS.—*

20 “(1) *EXEMPT PROPERTY.—*This section shall not
21 apply to the following:

22 “(A) *UNITED STATES REAL PROPERTY IN-*
23 *TERESTS.—*Any United States real property in-
24 terest (as defined in section 897(c)(1)), other
25 than stock of a United States real property hold-

1 *ing corporation which does not, on the day before*
2 *the expatriation date, meet the requirements of*
3 *section 897(c)(2).*

4 *“(B) SPECIFIED PROPERTY.—Any property*
5 *or interest in property not described in subpara-*
6 *graph (A) which the Secretary specifies in regu-*
7 *lations.*

8 *“(2) SPECIAL RULES FOR CERTAIN RETIREMENT*
9 *PLANS.—*

10 *“(A) IN GENERAL.—If a covered expatriate*
11 *holds on the day before the expatriation date any*
12 *interest in a retirement plan to which this para-*
13 *graph applies—*

14 *“(i) such interest shall not be treated*
15 *as sold for purposes of subsection (a)(1), but*

16 *“(ii) an amount equal to the present*
17 *value of the expatriate’s nonforfeitable ac-*
18 *crued benefit shall be treated as having been*
19 *received by such individual on such date as*
20 *a distribution under the plan.*

21 *“(B) TREATMENT OF SUBSEQUENT DIS-*
22 *TRIBUTIONS.—In the case of any distribution on*
23 *or after the expatriation date to or on behalf of*
24 *the covered expatriate from a plan from which*
25 *the expatriate was treated as receiving a dis-*

1 *tribution under subparagraph (A), the amount*
2 *otherwise includible in gross income by reason of*
3 *the subsequent distribution shall be reduced by*
4 *the excess of the amount includible in gross in-*
5 *come under subparagraph (A) over any portion*
6 *of such amount to which this subparagraph pre-*
7 *viously applied.*

8 *“(C) TREATMENT OF SUBSEQUENT DIS-*
9 *TRIBUTIONS BY PLAN.—For purposes of this title,*
10 *a retirement plan to which this paragraph ap-*
11 *plies, and any person acting on the plan’s behalf,*
12 *shall treat any subsequent distribution described*
13 *in subparagraph (B) in the same manner as*
14 *such distribution would be treated without re-*
15 *gard to this paragraph.*

16 *“(D) APPLICABLE PLANS.—This paragraph*
17 *shall apply to—*

18 *“(i) any qualified retirement plan (as*
19 *defined in section 4974(c)),*

20 *“(ii) an eligible deferred compensation*
21 *plan (as defined in section 457(b)) of an el-*
22 *igible employer described in section*
23 *457(e)(1)(A), and*

1 “(iii) to the extent provided in regula-
2 tions, any foreign pension plan or similar
3 retirement arrangements or programs.

4 “(e) DEFINITIONS.—For purposes of this section—

5 “(1) EXPATRIATE.—The term ‘expatriate’
6 means—

7 “(A) any United States citizen who relin-
8 quishes citizenship, and

9 “(B) any long-term resident of the United
10 States who—

11 “(i) ceases to be a lawful permanent
12 resident of the United States (within the
13 meaning of section 7701(b)(6)), or

14 “(ii) commences to be treated as a resi-
15 dent of a foreign country under the provi-
16 sions of a tax treaty between the United
17 States and the foreign country and who
18 does not waive the benefits of such treaty
19 applicable to residents of the foreign coun-
20 try.

21 “(2) EXPATRIATION DATE.—The term ‘expatria-
22 tion date’ means—

23 “(A) the date an individual relinquishes
24 United States citizenship, or

1 “(B) in the case of a long-term resident of
2 the United States, the date of the event described
3 in clause (i) or (ii) of paragraph (1)(B).

4 “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A cit-
5 izen shall be treated as relinquishing United States
6 citizenship on the earliest of—

7 “(A) the date the individual renounces such
8 individual’s United States nationality before a
9 diplomatic or consular officer of the United
10 States pursuant to paragraph (5) of section
11 349(a) of the Immigration and Nationality Act
12 (8 U.S.C. 1481(a)(5)),

13 “(B) the date the individual furnishes to the
14 United States Department of State a signed
15 statement of voluntary relinquishment of United
16 States nationality confirming the performance of
17 an act of expatriation specified in paragraph
18 (1), (2), (3), or (4) of section 349(a) of the Im-
19 migration and Nationality Act (8 U.S.C.
20 1481(a)(1)–(4)),

21 “(C) the date the United States Department
22 of State issues to the individual a certificate of
23 loss of nationality, or

1 “(D) the date a court of the United States
2 cancels a naturalized citizen’s certificate of natu-
3 ralization.

4 Subparagraph (A) or (B) shall not apply to any in-
5 dividual unless the renunciation or voluntary relin-
6 quishment is subsequently approved by the issuance to
7 the individual of a certificate of loss of nationality by
8 the United States Department of State.

9 “(4) LONG-TERM RESIDENT.—The term ‘long-
10 term resident’ has the meaning given to such term by
11 section 877(e)(2).

12 “(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’
13 INTERESTS IN TRUST.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), if an individual is determined under para-
16 graph (3) to hold an interest in a trust on the day
17 before the expatriation date—

18 “(A) the individual shall not be treated as
19 having sold such interest,

20 “(B) such interest shall be treated as a sep-
21 arate share in the trust, and

22 “(C)(i) such separate share shall be treated
23 as a separate trust consisting of the assets allo-
24 cable to such share,

1 “(i) the separate trust shall be treated as
2 having sold its assets on the day before the expa-
3 triation date for their fair market value and as
4 having distributed all of its assets to the indi-
5 vidual as of such time, and

6 “(iii) the individual shall be treated as hav-
7 ing recontributed the assets to the separate trust.

8 Subsection (a)(2) shall apply to any income, gain, or
9 loss of the individual arising from a distribution de-
10 scribed in subparagraph (C)(ii). In determining the
11 amount of such distribution, proper adjustments shall
12 be made for liabilities of the trust allocable to an in-
13 dividual’s share in the trust.

14 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
15 FIED TRUSTS.—

16 “(A) IN GENERAL.—If the trust interest de-
17 scribed in paragraph (1) is an interest in a
18 qualified trust—

19 “(i) paragraph (1) and subsection (a)
20 shall not apply, and

21 “(ii) in addition to any other tax im-
22 posed by this title, there is hereby imposed
23 on each distribution with respect to such in-
24 terest a tax in the amount determined
25 under subparagraph (B).

1 “(B) *AMOUNT OF TAX.*—*The amount of tax*
2 *under subparagraph (A)(ii) shall be equal to the*
3 *lesser of—*

4 “(i) *the highest rate of tax imposed by*
5 *section 1(e) for the taxable year which in-*
6 *cludes the day before the expatriation date,*
7 *multiplied by the amount of the distribu-*
8 *tion, or*

9 “(ii) *the balance in the deferred tax ac-*
10 *count immediately before the distribution*
11 *determined without regard to any increases*
12 *under subparagraph (C)(ii) after the 30th*
13 *day preceding the distribution.*

14 “(C) *DEFERRED TAX ACCOUNT.*—*For pur-*
15 *poses of subparagraph (B)(ii)—*

16 “(i) *OPENING BALANCE.*—*The opening*
17 *balance in a deferred tax account with re-*
18 *spect to any trust interest is an amount*
19 *equal to the tax which would have been im-*
20 *posed on the allocable expatriation gain*
21 *with respect to the trust interest if such*
22 *gain had been included in gross income*
23 *under subsection (a).*

24 “(ii) *INCREASE FOR INTEREST.*—*The*
25 *balance in the deferred tax account shall be*

1 *increased by the amount of interest deter-*
2 *mined (on the balance in the account at the*
3 *time the interest accrues), for periods after*
4 *the 90th day after the expatriation date, by*
5 *using the rates and method applicable*
6 *under section 6621 for underpayments of*
7 *tax for such periods, except that section*
8 *6621(a)(2) shall be applied by substituting*
9 *‘5 percentage points’ for ‘3 percentage*
10 *points’ in subparagraph (B) thereof.*

11 *“(iii) DECREASE FOR TAXES PRE-*
12 *VIOUSLY PAID.—The balance in the tax de-*
13 *ferred account shall be reduced—*

14 *“(I) by the amount of taxes im-*
15 *posed by subparagraph (A) on any dis-*
16 *tribution to the person holding the*
17 *trust interest, and*

18 *“(II) in the case of a person hold-*
19 *ing a nonvested interest, to the extent*
20 *provided in regulations, by the amount*
21 *of taxes imposed by subparagraph (A)*
22 *on distributions from the trust with re-*
23 *spect to nonvested interests not held by*
24 *such person.*

1 “(D) *ALLOCABLE EXPATRIATION GAIN.*—For
2 purposes of this paragraph, the allocable expa-
3 triation gain with respect to any beneficiary’s
4 interest in a trust is the amount of gain which
5 would be allocable to such beneficiary’s vested
6 and nonvested interests in the trust if the bene-
7 ficiary held directly all assets allocable to such
8 interests.

9 “(E) *TAX DEDUCTED AND WITHHELD.*—

10 “(i) *IN GENERAL.*—The tax imposed by
11 subparagraph (A)(i) shall be deducted and
12 withheld by the trustees from the distribu-
13 tion to which it relates.

14 “(ii) *EXCEPTION WHERE FAILURE TO*
15 *WAIVE TREATY RIGHTS.*—If an amount may
16 not be deducted and withheld under clause
17 (i) by reason of the distributee failing to
18 waive any treaty right with respect to such
19 distribution—

20 “(I) the tax imposed by subpara-
21 graph (A)(i) shall be imposed on the
22 trust and each trustee shall be person-
23 ally liable for the amount of such tax,
24 and

1 “(II) any other beneficiary of the
2 trust shall be entitled to recover from
3 the distributee the amount of such tax
4 imposed on the other beneficiary.

5 “(F) DISPOSITION.—If a trust ceases to be
6 a qualified trust at any time, a covered expa-
7 triate disposes of an interest in a qualified trust,
8 or a covered expatriate holding an interest in a
9 qualified trust dies, then, in lieu of the tax im-
10 posed by subparagraph (A)(ii), there is hereby
11 imposed a tax equal to the lesser of—

12 “(i) the tax determined under para-
13 graph (1) as if the day before the expatria-
14 tion date were the date of such cessation,
15 disposition, or death, whichever is applica-
16 ble, or

17 “(ii) the balance in the tax deferred ac-
18 count immediately before such date.

19 Such tax shall be imposed on the trust and each
20 trustee shall be personally liable for the amount
21 of such tax and any other beneficiary of the trust
22 shall be entitled to recover from the covered expa-
23 triate or the estate the amount of such tax im-
24 posed on the other beneficiary.

1 “(G) *DEFINITIONS AND SPECIAL RULES.*—

2 *For purposes of this paragraph—*

3 “(i) *QUALIFIED TRUST.*—*The term*
4 *‘qualified trust’ means a trust which is de-*
5 *scribed in section 7701(a)(30)(E).*

6 “(ii) *VESTED INTEREST.*—*The term*
7 *‘vested interest’ means any interest which,*
8 *as of the day before the expatriation date, is*
9 *vested in the beneficiary.*

10 “(iii) *NONVESTED INTEREST.*—*The*
11 *term ‘nonvested interest’ means, with re-*
12 *spect to any beneficiary, any interest in a*
13 *trust which is not a vested interest. Such*
14 *interest shall be determined by assuming the*
15 *maximum exercise of discretion in favor of*
16 *the beneficiary and the occurrence of all*
17 *contingencies in favor of the beneficiary.*

18 “(iv) *ADJUSTMENTS.*—*The Secretary*
19 *may provide for such adjustments to the*
20 *bases of assets in a trust or a deferred tax*
21 *account, and the timing of such adjust-*
22 *ments, in order to ensure that gain is taxed*
23 *only once.*

24 “(v) *COORDINATION WITH RETIREMENT*
25 *PLAN RULES.*—*This subsection shall not*

1 *apply to an interest in a trust which is*
2 *part of a retirement plan to which sub-*
3 *section (d)(2) applies.*

4 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
5 *EST IN TRUST.—*

6 “(A) *DETERMINATIONS UNDER PARAGRAPH*
7 *(1).—For purposes of paragraph (1), a bene-*
8 *ficiary’s interest in a trust shall be based upon*
9 *all relevant facts and circumstances, including*
10 *the terms of the trust instrument and any letter*
11 *of wishes or similar document, historical pat-*
12 *terns of trust distributions, and the existence of*
13 *and functions performed by a trust protector or*
14 *any similar adviser.*

15 “(B) *OTHER DETERMINATIONS.—For pur-*
16 *poses of this section—*

17 “(i) *CONSTRUCTIVE OWNERSHIP.—If a*
18 *beneficiary of a trust is a corporation, part-*
19 *nership, trust, or estate, the shareholders,*
20 *partners, or beneficiaries shall be deemed to*
21 *be the trust beneficiaries for purposes of this*
22 *section.*

23 “(ii) *TAXPAYER RETURN POSITION.—A*
24 *taxpayer shall clearly indicate on its in-*
25 *come tax return—*

1 “(I) the methodology used to de-
2 termine that taxpayer’s trust interest
3 under this section, and

4 “(II) if the taxpayer knows (or
5 has reason to know) that any other
6 beneficiary of such trust is using a dif-
7 ferent methodology to determine such
8 beneficiary’s trust interest under this
9 section.

10 “(g) *TERMINATION OF DEFERRALS, ETC.*—In the case
11 of any covered expatriate, notwithstanding any other provi-
12 sion of this title—

13 “(1) any period during which recognition of in-
14 come or gain is deferred shall terminate on the day
15 before the expatriation date, and

16 “(2) any extension of time for payment of tax
17 shall cease to apply on the day before the expatriation
18 date and the unpaid portion of such tax shall be due
19 and payable at the time and in the manner pre-
20 scribed by the Secretary.

21 “(h) *IMPOSITION OF TENTATIVE TAX.*—

22 “(1) *IN GENERAL.*—If an individual is required
23 to include any amount in gross income under sub-
24 section (a) for any taxable year, there is hereby im-
25 posed, immediately before the expatriation date, a tax

1 *in an amount equal to the amount of tax which*
2 *would be imposed if the taxable year were a short tax-*
3 *able year ending on the expatriation date.*

4 “(2) *DUE DATE.*—*The due date for any tax im-*
5 *posed by paragraph (1) shall be the 90th day after the*
6 *expatriation date.*

7 “(3) *TREATMENT OF TAX.*—*Any tax paid under*
8 *paragraph (1) shall be treated as a payment of the*
9 *tax imposed by this chapter for the taxable year to*
10 *which subsection (a) applies.*

11 “(4) *DEFERRAL OF TAX.*—*The provisions of sub-*
12 *section (b) shall apply to the tax imposed by this sub-*
13 *section to the extent attributable to gain includible in*
14 *gross income by reason of this section.*

15 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

16 “(1) *IMPOSITION OF LIEN.*—

17 “(A) *IN GENERAL.*—*If a covered expatriate*
18 *makes an election under subsection (a)(4) or (b)*
19 *which results in the deferral of any tax imposed*
20 *by reason of subsection (a), the deferred amount*
21 *(including any interest, additional amount, ad-*
22 *dition to tax, assessable penalty, and costs at-*
23 *tributable to the deferred amount) shall be a lien*
24 *in favor of the United States on all property of*
25 *the expatriate located in the United States (with-*

1 *out regard to whether this section applies to the*
2 *property).*

3 “(B) *DEFERRED AMOUNT.*—*For purposes of*
4 *this subsection, the deferred amount is the*
5 *amount of the increase in the covered expatri-*
6 *ate’s income tax which, but for the election under*
7 *subsection (a)(4) or (b), would have occurred by*
8 *reason of this section for the taxable year includ-*
9 *ing the expatriation date.*

10 “(2) *PERIOD OF LIEN.*—*The lien imposed by this*
11 *subsection shall arise on the expatriation date and*
12 *continue until—*

13 “(A) *the liability for tax by reason of this*
14 *section is satisfied or has become unenforceable*
15 *by reason of lapse of time, or*

16 “(B) *it is established to the satisfaction of*
17 *the Secretary that no further tax liability may*
18 *arise by reason of this section.*

19 “(3) *CERTAIN RULES APPLY.*—*The rules set forth*
20 *in paragraphs (1), (3), and (4) of section 6324A(d)*
21 *shall apply with respect to the lien imposed by this*
22 *subsection as if it were a lien imposed by section*
23 *6324A.*

1 “(j) *REGULATIONS.*—*The Secretary shall prescribe*
2 *such regulations as may be necessary or appropriate to*
3 *carry out the purposes of this section.*”.

4 **(b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS***
5 ***RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS***
6 ***FROM EXPATRIATES.***—*Section 102 (relating to gifts, etc.*
7 *not included in gross income) is amended by adding at the*
8 *end the following new subsection:*

9 “(d) ***GIFTS AND INHERITANCES FROM COVERED EX-***
10 ***PATRIATES.***—

11 “(1) ***IN GENERAL.***—*Subsection (a) shall not ex-*
12 *clude from gross income the value of any property ac-*
13 *quired by gift, bequest, devise, or inheritance from a*
14 *covered expatriate after the expatriation date. For*
15 *purposes of this subsection, any term used in this sub-*
16 *section which is also used in section 877A shall have*
17 *the same meaning as when used in section 877A.*

18 “(2) ***EXCEPTIONS FOR TRANSFERS OTHERWISE***
19 ***SUBJECT TO ESTATE OR GIFT TAX.***—*Paragraph (1)*
20 *shall not apply to any property if either—*

21 “(A) *the gift, bequest, devise, or inheritance*
22 *is—*

23 “(i) *shown on a timely filed return of*
24 *tax imposed by chapter 12 as a taxable gift*
25 *by the covered expatriate, or*

1 “(ii) included in the gross estate of the
2 covered expatriate for purposes of chapter
3 11 and shown on a timely filed return of
4 tax imposed by chapter 11 of the estate of
5 the covered expatriate, or

6 “(B) no such return was timely filed but no
7 such return would have been required to be filed
8 even if the covered expatriate were a citizen or
9 long-term resident of the United States.”.

10 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
11 *CITIZENSHIP.*—Section 7701(a) is amended by adding at
12 *the end the following new paragraph:*

13 “(48) *TERMINATION OF UNITED STATES CITIZEN-*
14 *SHIP.*—

15 “(A) *IN GENERAL.*—An individual shall not
16 cease to be treated as a United States citizen be-
17 fore the date on which the individual’s citizen-
18 ship is treated as relinquished under section
19 877A(e)(3).

20 “(B) *DUAL CITIZENS.*—Under regulations
21 prescribed by the Secretary, subparagraph (A)
22 shall not apply to an individual who became at
23 birth a citizen of the United States and a citizen
24 of another country.”.

1 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
2 *UNITED STATES.*—

3 (1) *IN GENERAL.*—Section 212(a)(10)(E) of the
4 *Immigration and Nationality Act* (8 U.S.C.
5 *1182(a)(10)(E))* is amended to read as follows:

6 “(E) *FORMER CITIZENS NOT IN COMPLI-*
7 *ANCE WITH EXPATRIATION REVENUE PROVI-*
8 *SIONS.*—Any alien who is a former citizen of the
9 *United States who relinquishes United States*
10 *citizenship (within the meaning of section*
11 *877A(e)(3) of the Internal Revenue Code of 1986*
12 *and who is not in compliance with section 877A*
13 *of such Code (relating to expatriation)).”.*

14 (2) *AVAILABILITY OF INFORMATION.*—

15 (A) *IN GENERAL.*—Section 6103(l) (relating
16 *to disclosure of returns and return information*
17 *for purposes other than tax administration)* is
18 *amended by adding at the end the following new*
19 *paragraph:*

20 “(19) *DISCLOSURE TO DENY VISA OR ADMISSION*
21 *TO CERTAIN EXPATRIATES.*—Upon written request of
22 *the Attorney General or the Attorney General’s dele-*
23 *gate, the Secretary shall disclose whether an indi-*
24 *vidual is in compliance with section 877A (and if not*
25 *in compliance, any items of noncompliance) to offi-*

1 *cers and employees of the Federal agency responsible*
2 *for administering section 212(a)(10)(E) of the Immig-*
3 *ration and Nationality Act solely for the purpose of,*
4 *and to the extent necessary in, administering such*
5 *section 212(a)(10)(E).”.*

6 (B) *SAFEGUARDS.—*

7 (i) *TECHNICAL AMENDMENTS.—Para-*
8 *graph (4) of section 6103(p) of the Internal*
9 *Revenue Code of 1986, as amended by sec-*
10 *tion 202(b)(2)(B) of the Trade Act of 2002*
11 *(Public Law 107–210; 116 Stat. 961), is*
12 *amended by striking “or (17)” after “any*
13 *other person described in subsection (l)(16)”*
14 *each place it appears and inserting “or*
15 *(18)”.*

16 (ii) *CONFORMING AMENDMENTS.—Sec-*
17 *tion 6103(p)(4) (relating to safeguards), as*
18 *amended by clause (i), is amended by strik-*
19 *ing “or (18)” after “any other person de-*
20 *scribed in subsection (l)(16)” each place it*
21 *appears and inserting “(18), or (19)”.*

22 (3) *EFFECTIVE DATES.—*

23 (A) *IN GENERAL.—Except as provided in*
24 *subparagraph (B), the amendments made by this*
25 *subsection shall apply to individuals who relin-*

1 *quish United States citizenship on or after the*
2 *date of the enactment of this Act.*

3 (B) *TECHNICAL AMENDMENTS.—The*
4 *amendments made by paragraph (2)(B)(i) shall*
5 *take effect as if included in the amendments*
6 *made by section 202(b)(2)(B) of the Trade Act of*
7 *2002 (Public Law 107–210; 116 Stat. 961).*

8 (e) *CONFORMING AMENDMENTS.—*

9 (1) *Section 877 is amended by adding at the end*
10 *the following new subsection:*

11 “(g) *APPLICATION.—This section shall not apply to an*
12 *expatriate (as defined in section 877A(e)) whose expatria-*
13 *tion date (as so defined) occurs on or after February 2,*
14 *2004.”.*

15 (2) *Section 2107 is amended by adding at the*
16 *end the following new subsection:*

17 “(f) *APPLICATION.—This section shall not apply to*
18 *any expatriate subject to section 877A.”.*

19 (3) *Section 2501(a)(3) is amended by adding at*
20 *the end the following new subparagraph:*

21 “(F) *APPLICATION.—This paragraph shall*
22 *not apply to any expatriate subject to section*
23 *877A.”.*

24 (4)(A) *Paragraph (1) of section 6039G(d) is*
25 *amended by inserting “or 877A” after “section 877”.*

1 (B) *The second sentence of section 6039G(e) is*
2 *amended by inserting “or who relinquishes United*
3 *States citizenship (within the meaning of section*
4 *877A(e)(3))” after “877(a)”.*

5 (C) *Section 6039G(f) is amended by inserting*
6 *“or 877A(e)(2)(B)” after “877(e)(1)”.*

7 (f) *CLERICAL AMENDMENT.—The table of sections for*
8 *subpart A of part II of subchapter N of chapter 1 is amend-*
9 *ed by inserting after the item relating to section 877 the*
10 *following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”.

11 (g) *EFFECTIVE DATE.—*

12 (1) *IN GENERAL.—Except as provided in this*
13 *subsection, the amendments made by this section shall*
14 *apply to expatriates (within the meaning of section*
15 *877A(e) of the Internal Revenue Code of 1986, as*
16 *added by this section) whose expatriation date (as so*
17 *defined) occurs on or after February 2, 2004.*

18 (2) *GIFTS AND BEQUESTS.—Section 102(d) of*
19 *the Internal Revenue Code of 1986 (as added by sub-*
20 *section (b)) shall apply to gifts and bequests received*
21 *on or after February 2, 2004, from an individual or*
22 *the estate of an individual whose expatriation date*
23 *(as so defined) occurs after such date.*

24 (3) *DUE DATE FOR TENTATIVE TAX.—The due*
25 *date under section 877A(h)(2) of the Internal Revenue*

1 “(A) in the case of a stock option (or other
2 similar right) or any stock appreciation right,
3 the fair value of such option or right, and

4 “(B) in any other case, the fair market
5 value of such compensation.

6 “(2) DATE FOR DETERMINING VALUE.—The de-
7 termination of value shall be made—

8 “(A) in the case of specified stock compensa-
9 tion held on the inversion date, on such date,

10 “(B) in the case of such compensation which
11 is canceled during the 6 months before the inver-
12 sion date, on the day before such cancellation,
13 and

14 “(C) in the case of such compensation which
15 is granted after the inversion date, on the date
16 such compensation is granted.

17 “(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN
18 RECOGNIZED.—Subsection (a) shall apply to any disquali-
19 fied individual with respect to an inverted corporation only
20 if gain (if any) on any stock in such corporation is recog-
21 nized in whole or part by any shareholder by reason of the
22 acquisition referred to in section 7874(a)(2)(A) (determined
23 by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with
24 respect to such corporation.

1 “(d) *EXCEPTION WHERE GAIN RECOGNIZED ON COM-*
2 *PENSATION.*—*Subsection (a) shall not apply to—*

3 “(1) *any stock option which is exercised on the*
4 *inversion date or during the 6-month period before*
5 *such date and to the stock acquired in such exercise,*
6 *if income is recognized under section 83 on or before*
7 *the inversion date with respect to the stock acquired*
8 *pursuant to such exercise, and*

9 “(2) *any specified stock compensation which is*
10 *exercised, sold, exchanged, distributed, cashed out, or*
11 *otherwise paid during such period in a transaction in*
12 *which gain or loss is recognized in full.*

13 “(e) *DEFINITIONS.*—*For purposes of this section—*

14 “(1) *DISQUALIFIED INDIVIDUAL.*—*The term ‘dis-*
15 *qualified individual’ means, with respect to a cor-*
16 *poration, any individual who, at any time during the*
17 *12-month period beginning on the date which is 6*
18 *months before the inversion date—*

19 “(A) *is subject to the requirements of section*
20 *16(a) of the Securities Exchange Act of 1934*
21 *with respect to such corporation, or*

22 “(B) *would be subject to such requirements*
23 *if such corporation were an issuer of equity secu-*
24 *rities referred to in such section.*

1 “(2) *INVERTED CORPORATION; INVERSION*
2 *DATE.*—

3 “(A) *INVERTED CORPORATION.*—*The term*
4 *‘inverted corporation’ means any corporation to*
5 *which subsection (a) or (b) of section 7874 ap-*
6 *plies determined—*

7 *“(i) by substituting ‘July 10, 2002’ for*
8 *‘March 20, 2002’ in section 7874(a)(2)(A),*
9 *and*

10 *“(ii) without regard to subsection*
11 *(b)(1)(A).*

12 *Such term includes any predecessor or successor*
13 *of such a corporation.*

14 “(B) *INVERSION DATE.*—*The term ‘inver-*
15 *sion date’ means, with respect to a corporation,*
16 *the date on which the corporation first becomes*
17 *an inverted corporation.*

18 “(3) *SPECIFIED STOCK COMPENSATION.*—

19 “(A) *IN GENERAL.*—*The term ‘specified*
20 *stock compensation’ means payment (or right to*
21 *payment) granted by the inverted corporation*
22 *(or by any member of the expanded affiliated*
23 *group which includes such corporation) to any*
24 *person in connection with the performance of*
25 *services by a disqualified individual for such cor-*

1 *poration or member if the value of such payment*
2 *or right is based on (or determined by reference*
3 *to) the value (or change in value) of stock in*
4 *such corporation (or any such member).*

5 *“(B) EXCEPTIONS.—Such term shall not in-*
6 *clude—*

7 *“(i) any option to which part II of*
8 *subchapter D of chapter 1 applies, or*

9 *“(ii) any payment or right to payment*
10 *from a plan referred to in section*
11 *280G(b)(6).*

12 *“(4) EXPANDED AFFILIATED GROUP.—The term*
13 *‘expanded affiliated group’ means an affiliated group*
14 *(as defined in section 1504(a) without regard to sec-*
15 *tion 1504(b)(3)); except that section 1504(a) shall be*
16 *applied by substituting ‘more than 50 percent’ for ‘at*
17 *least 80 percent’ each place it appears.*

18 *“(f) SPECIAL RULES.—For purposes of this section—*

19 *“(1) CANCELLATION OF RESTRICTION.—The can-*
20 *cellation of a restriction which by its terms will never*
21 *lapse shall be treated as a grant.*

22 *“(2) PAYMENT OR REIMBURSEMENT OF TAX BY*
23 *CORPORATION TREATED AS SPECIFIED STOCK COM-*
24 *PENSATION.—Any payment of the tax imposed by this*
25 *section directly or indirectly by the inverted corpora-*

1 *tion or by any member of the expanded affiliated*
2 *group which includes such corporation—*

3 *“(A) shall be treated as specified stock com-*
4 *pensation, and*

5 *“(B) shall not be allowed as a deduction*
6 *under any provision of chapter 1.*

7 *“(3) CERTAIN RESTRICTIONS IGNORED.—Wheth-*
8 *er there is specified stock compensation, and the value*
9 *thereof, shall be determined without regard to any re-*
10 *striction other than a restriction which by its terms*
11 *will never lapse.*

12 *“(4) PROPERTY TRANSFERS.—Any transfer of*
13 *property shall be treated as a payment and any right*
14 *to a transfer of property shall be treated as a right*
15 *to a payment.*

16 *“(5) OTHER ADMINISTRATIVE PROVISIONS.—For*
17 *purposes of subtitle F, any tax imposed by this sec-*
18 *tion shall be treated as a tax imposed by subtitle A.*

19 *“(g) REGULATIONS.—The Secretary shall prescribe*
20 *such regulations as may be necessary or appropriate to*
21 *carry out the purposes of this section.”.*

22 *(b) DENIAL OF DEDUCTION.—*

23 *(1) IN GENERAL.—Paragraph (6) of section*
24 *275(a) is amended by inserting “48,” after “46,”.*

1 (2) \$1,000,000 LIMIT ON DEDUCTIBLE COM-
2 PENSATION REDUCED BY PAYMENT OF EXCISE TAX ON
3 SPECIFIED STOCK COMPENSATION.—Paragraph (4) of
4 section 162(m) is amended by adding at the end the
5 following new subparagraph:

6 “(G) COORDINATION WITH EXCISE TAX ON
7 SPECIFIED STOCK COMPENSATION.—The dollar
8 limitation contained in paragraph (1) with re-
9 spect to any covered employee shall be reduced
10 (but not below zero) by the amount of any pay-
11 ment (with respect to such employee) of the tax
12 imposed by section 5000A directly or indirectly
13 by the inverted corporation (as defined in such
14 section) or by any member of the expanded affili-
15 ated group (as defined in such section) which in-
16 cludes such corporation.”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) The last sentence of section 3121(v)(2)(A) is
19 amended by inserting before the period “or to any
20 specified stock compensation (as defined in section
21 5000A) on which tax is imposed by section 5000A”.

22 (2) The table of chapters for subtitle D is amend-
23 ed by adding at the end the following new item:

 “Chapter 48. Stock compensation of insiders in inverted corporations.”.

24 (d) EFFECTIVE DATE.—The amendments made by this
25 section shall take effect on July 11, 2002; except that periods

1 before such date shall not be taken into account in applying
2 the periods in subsections (a) and (e)(1) of section 5000A
3 of the Internal Revenue Code of 1986, as added by this sec-
4 tion.

5 **SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOR-**
6 **EIGN JURISDICTIONS.**

7 (a) *IN GENERAL.*—Section 845(a) (relating to alloca-
8 tion in case of reinsurance agreement involving tax avoid-
9 ance or evasion) is amended by striking “source and char-
10 acter” and inserting “amount, source, or character”.

11 (b) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to any risk reinsured after April 11,
13 2002.

14 ***Subtitle H—Additional Revenue***
15 ***Provisions***

16 ***PART I—ADMINISTRATIVE PROVISIONS***

17 **SEC. 5671. EXTENSION OF IRS USER FEES.**

18 (a) *IN GENERAL.*—Section 7528(c) (relating to termi-
19 nation) is amended by striking “December 31, 2004” and
20 inserting “September 30, 2013”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to requests after the date of the enact-
23 ment of this Act.

1 **SEC. 5672. CLARIFICATION OF RULES FOR PAYMENT OF ES-**
2 **TIMATED TAX FOR CERTAIN DEEMED ASSET**
3 **SALES.**

4 (a) *IN GENERAL.*—Paragraph (13) of section 338(h)
5 (relating to tax on deemed sale not taken into account for
6 estimated tax purposes) is amended by adding at the end
7 the following: “The preceding sentence shall not apply with
8 respect to a qualified stock purchase for which an election
9 is made under paragraph (10).”.

10 (b) *EFFECTIVE DATE.*—The amendment made by sub-
11 section (a) shall apply to transactions occurring after the
12 date of the enactment of this Act.

13 **SEC. 5673. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
14 **STALLMENT AGREEMENTS.**

15 (a) *IN GENERAL.*—

16 (1) Section 6159(a) (relating to authorization of
17 agreements) is amended—

18 (A) by striking “satisfy liability for pay-
19 ment of” and inserting “make payment on”, and

20 (B) by inserting “full or partial” after “fa-
21 cilitate”.

22 (2) Section 6159(c) (relating to Secretary re-
23 quired to enter into installment agreements in certain
24 cases) is amended in the matter preceding paragraph
25 (1) by inserting “full” before “payment”.

1 (b) *REQUIREMENT TO REVIEW PARTIAL PAYMENT*
 2 *AGREEMENTS EVERY TWO YEARS.*—Section 6159, as
 3 amended by this Act, is amended by redesignating sub-
 4 sections (d), (e), and (f) as subsections (e), (f), and (g), re-
 5 spectively, and inserting after subsection (c) the following
 6 new subsection:

7 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
 8 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
 9 *YEARS.*—In the case of an agreement entered into by the
 10 Secretary under subsection (a) for partial collection of a
 11 tax liability, the Secretary shall review the agreement at
 12 least once every 2 years.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to agreements entered into on or after
 15 the date of the enactment of this Act.

16 **PART II—FINANCIAL INSTRUMENTS**

17 **SEC. 5675. TREATMENT OF STRIPPED INTERESTS IN BOND**
 18 **AND PREFERRED STOCK FUNDS, ETC.**

19 (a) *IN GENERAL.*—Section 1286 (relating to tax treat-
 20 ment of stripped bonds) is amended by redesignating sub-
 21 section (f) as subsection (g) and by inserting after sub-
 22 section (e) the following new subsection:

23 “(f) *TREATMENT OF STRIPPED INTERESTS IN BOND*
 24 *AND PREFERRED STOCK FUNDS, ETC.*—In the case of an
 25 account or entity substantially all of the assets of which

1 consist of bonds, preferred stock, or a combination thereof,
 2 the Secretary may by regulations provide that rules similar
 3 to the rules of this section and 305(e), as appropriate, shall
 4 apply to interests in such account or entity to which (but
 5 for this subsection) this section or section 305(e), as the case
 6 may be, would not apply.”.

7 (b) *CROSS REFERENCE.*—Subsection (e) of section 305
 8 is amended by adding at the end the following new para-
 9 graph:

10 “(7) *CROSS REFERENCE.*—

**“For treatment of stripped interests in certain ac-
 counts or entities holding preferred stock, see section
 1286(f).”.**

11 (c) *EFFECTIVE DATE.*—The amendments made by this
 12 section shall apply to purchases and dispositions after the
 13 date of the enactment of this Act.

14 **SEC. 5676. APPLICATION OF EARNINGS STRIPPING RULES**
 15 **TO PARTNERSHIPS AND S CORPORATIONS.**

16 (a) *IN GENERAL.*—Section 168(j) (relating to limita-
 17 tion on deduction for interest on certain indebtedness) is
 18 amended by redesignating paragraph (8) as paragraph (9)
 19 and by inserting after paragraph (7) the following new
 20 paragraph:

21 “(8) *APPLICATION TO PARTNERSHIPS AND S COR-*
 22 *PORATIONS.*—

1 “(A) *IN GENERAL.*—*This subsection shall*
2 *apply to partnerships and S corporations in the*
3 *same manner as it applies to C corporations.*

4 “(B) *ALLOCATIONS TO CERTAIN CORPORATE*
5 *PARTNERS.*—*If a C corporation is a partner in*
6 *a partnership—*

7 “(i) *the corporation’s allocable share of*
8 *indebtedness and interest income of the*
9 *partnership shall be taken into account in*
10 *applying this subsection to the corporation,*
11 *and*

12 “(ii) *if a deduction is not disallowed*
13 *under this subsection with respect to any*
14 *interest expense of the partnership, this sub-*
15 *section shall be applied separately in deter-*
16 *mining whether a deduction is allowable to*
17 *the corporation with respect to the corpora-*
18 *tion’s allocable share of such interest ex-*
19 *pense.”.*

20 “(b) *EFFECTIVE DATE.*—*The amendments made by this*
21 *section shall apply to taxable years beginning after the date*
22 *of the enactment of this Act.*

1 **SEC. 5677. RECOGNITION OF CANCELLATION OF INDEBTED-**
2 **NESS INCOME REALIZED ON SATISFACTION**
3 **OF DEBT WITH PARTNERSHIP INTEREST.**

4 (a) *IN GENERAL.*—Paragraph (8) of section 108(e) (re-
5 lating to general rules for discharge of indebtedness (includ-
6 ing discharges not in title 11 cases or insolvency)) is
7 amended to read as follows:

8 “(8) *INDEBTEDNESS SATISFIED BY CORPORATE*
9 *STOCK OR PARTNERSHIP INTEREST.*—For purposes of
10 determining income of a debtor from discharge of in-
11 debtedness, if—

12 “(A) a debtor corporation transfers stock, or

13 “(B) a debtor partnership transfers a cap-
14 ital or profits interest in such partnership,

15 to a creditor in satisfaction of its recourse or non-
16 recourse indebtedness, such corporation or partnership
17 shall be treated as having satisfied the indebtedness
18 with an amount of money equal to the fair market
19 value of the stock or interest. In the case of any part-
20 nership, any discharge of indebtedness income recog-
21 nized under this paragraph shall be included in the
22 distributive shares of taxpayers which were the part-
23 ners in the partnership immediately before such dis-
24 charge.”.

25 (b) *EFFECTIVE DATE.*—The amendment made by this
26 section shall apply with respect to cancellations of indebted-

1 *ness occurring on or after the date of the enactment of this*
2 *Act.*

3 **SEC. 5678. MODIFICATION OF STRADDLE RULES.**

4 *(a) RULES RELATING TO IDENTIFIED STRADDLES.—*

5 *(1) IN GENERAL.—Subparagraph (A) of section*
6 *1092(a)(2) (relating to special rule for identified*
7 *straddles) is amended to read as follows:*

8 *“(A) IN GENERAL.—In the case of any*
9 *straddle which is an identified straddle—*

10 *“(i) paragraph (1) shall not apply*
11 *with respect to identified positions com-*
12 *prising the identified straddle,*

13 *“(ii) if there is any loss with respect to*
14 *any identified position of the identified*
15 *straddle, the basis of each of the identified*
16 *offsetting positions in the identified straddle*
17 *shall be increased by an amount which*
18 *bears the same ratio to the loss as the unrec-*
19 *ognized gain with respect to such offsetting*
20 *position bears to the aggregate unrecognized*
21 *gain with respect to all such offsetting posi-*
22 *tions, and*

23 *“(iii) any loss described in clause (ii)*
24 *shall not otherwise be taken into account for*
25 *purposes of this title.”.*

1 (2) *IDENTIFIED STRADDLE.*—Section
2 1092(a)(2)(B) (*defining identified straddle*) is amend-
3 ed—

4 (A) *by striking clause (ii) and inserting the*
5 *following:*

6 “(ii) *to the extent provided by regula-*
7 *tions, the value of each position of which (in*
8 *the hands of the taxpayer immediately be-*
9 *fore the creation of the straddle) is not less*
10 *than the basis of such position in the hands*
11 *of the taxpayer at the time the straddle is*
12 *created, and”*, and

13 (B) *by adding at the end the following new*
14 *flush sentence:*

15 “*The Secretary shall prescribe regulations which*
16 *specify the proper methods for clearly identifying*
17 *a straddle as an identified straddle (and the po-*
18 *sitions comprising such straddle), which specify*
19 *the rules for the application of this section for a*
20 *taxpayer which fails to properly identify the po-*
21 *sitions of an identified straddle, and which*
22 *specify the ordering rules in cases where a tax-*
23 *payer disposes of less than an entire position*
24 *which is part of an identified straddle.”*

1 (3) *UNRECOGNIZED GAIN.*—Section 1092(a)(3)
2 *(defining unrecognized gain) is amended by redesignig-*
3 *ating subparagraph (B) as subparagraph (C) and*
4 *by inserting after subparagraph (A) the following new*
5 *subparagraph:*

6 “(B) *SPECIAL RULE FOR IDENTIFIED*
7 *STRADDLES.*—For purposes of paragraph
8 (2)(A)(i), the unrecognized gain with respect to
9 any identified offsetting position shall be the ex-
10 cess of the fair market value of the position at
11 the time of the determination over the fair mar-
12 ket value of the position at the time the taxpayer
13 identified the position as a position in an identi-
14 fied straddle.”

15 (4) *CONFORMING AMENDMENT.*—Section
16 1092(c)(2) is amended by striking subparagraph (B)
17 and by redesignating subparagraph (C) as subpara-
18 graph (B).

19 (b) *PHYSICALLY SETTLED POSITIONS.*—Section
20 1092(d) (relating to definitions and special rules) is amend-
21 ed by adding at the end the following new paragraph:

22 “(8) *SPECIAL RULES FOR PHYSICALLY SETTLED*
23 *POSITIONS.*—For purposes of subsection (a), if a tax-
24 payer settles a position which is part of a straddle by
25 delivering property to which the position relates (and

1 *such position, if terminated, would result in a real-*
2 *ization of a loss), then such taxpayer shall be treated*
3 *as if such taxpayer—*

4 *“(A) terminated the position for its fair*
5 *market value immediately before the settlement,*
6 *and*

7 *“(B) sold the property so delivered by the*
8 *taxpayer at its fair market value.”.*

9 *(c) REPEAL OF STOCK EXCEPTION.—*

10 *(1) IN GENERAL.—Section 1092(d)(3) is re-*
11 *pealed.*

12 *(2) CONFORMING AMENDMENT.—Section*
13 *1258(d)(1) is amended by striking “; except that the*
14 *term ‘personal property’ shall include stock”.*

15 *(d) REPEAL OF QUALIFIED COVERED CALL EXCEP-*
16 *TION.—Section 1092(c)(4) is amended by adding at the end*
17 *the following new subparagraph:*

18 *“(I) TERMINATION.—This paragraph shall*
19 *not apply to any position established on or after*
20 *the date of the enactment of this subparagraph.”.*

21 *(e) EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to positions established on or after the*
23 *date of the enactment of this Act.*

1 **SEC. 5679. DENIAL OF INSTALLMENT SALE TREATMENT FOR**
2 **ALL READILY TRADEABLE DEBT.**

3 (a) *IN GENERAL.*—Section 453(f)(4)(B) (relating to
4 purchaser evidences of indebtedness payable on demand or
5 readily tradeable) is amended by striking “is issued by a
6 corporation or a government or political subdivision thereof
7 and”.

8 (b) *EFFECTIVE DATE.*—The amendment made by this
9 section shall apply to sales occurring on or after the date
10 of the enactment of this Act.

11 **PART III—CORPORATIONS AND PARTNERSHIPS**

12 **SEC. 5680. MODIFICATION OF TREATMENT OF TRANSFERS**
13 **TO CREDITORS IN DIVISIVE REORGANIZA-**
14 **TIONS.**

15 (a) *IN GENERAL.*—Section 361(b)(3) (relating to treat-
16 ment of transfers to creditors) is amended by adding at the
17 end the following new sentence: “In the case of a reorganiza-
18 tion described in section 368(a)(1)(D) with respect to which
19 stock or securities of the corporation to which the assets are
20 transferred are distributed in a transaction which qualifies
21 under section 355, this paragraph shall apply only to the
22 extent that the sum of the money and the fair market value
23 of other property transferred to such creditors does not ex-
24 ceed the adjusted bases of such assets transferred.”.

25 (b) *LIABILITIES IN EXCESS OF BASIS.*—Section
26 357(c)(1)(B) is amended by inserting “with respect to

1 *which stock or securities of the corporation to which the as-*
2 *sets are transferred are distributed in a transaction which*
3 *qualifies under section 355” after “section 368(a)(1)(D)”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply to transfers of money or other property,*
6 *or liabilities assumed, in connection with a reorganization*
7 *occurring on or after the date of the enactment of this Act.*

8 **SEC. 5681. CLARIFICATION OF DEFINITION OF NON-**
9 **QUALIFIED PREFERRED STOCK.**

10 *(a) IN GENERAL.—Section 351(g)(3)(A) is amended*
11 *by adding at the end the following: “Stock shall not be treat-*
12 *ed as participating in corporate growth to any significant*
13 *extent unless there is a real and meaningful likelihood of*
14 *the shareholder actually participating in the earnings and*
15 *growth of the corporation.”.*

16 *(b) EFFECTIVE DATE.—The amendment made by this*
17 *section shall apply to transactions after May 14, 2003.*

18 **SEC. 5682. MODIFICATION OF DEFINITION OF CONTROLLED**
19 **GROUP OF CORPORATIONS.**

20 *(a) IN GENERAL.—Section 1563(a)(2) (relating to*
21 *brother-sister controlled group) is amended by striking*
22 *“possessing—” and all that follows through “(B)” and in-*
23 *serting “possessing”.*

24 *(b) APPLICATION OF EXISTING RULES TO OTHER*
25 *CODE PROVISIONS.—Section 1563(f) (relating to other defi-*

1 *itions and rules) is amended by adding at the end the*
2 *following new paragraph:*

3 “(5) *BROTHER-SISTER CONTROLLED GROUP DEF-*
4 *INITION FOR PROVISIONS OTHER THAN THIS PART.—*

5 “(A) *IN GENERAL.—Except as specifically*
6 *provided in an applicable provision, subsection*
7 *(a)(2) shall be applied to an applicable provision*
8 *as if it read as follows:*

9 “(2) *BROTHER-SISTER CONTROLLED GROUP.—*
10 *Two or more corporations if 5 or fewer persons who*
11 *are individuals, estates, or trusts own (within the*
12 *meaning of subsection (d)(2) stock possessing—*

13 “(A) *at least 80 percent of the total com-*
14 *bined voting power of all classes of stock entitled*
15 *to vote, or at least 80 percent of the total value*
16 *of shares of all classes of stock, of each corpora-*
17 *tion, and*

18 “(B) *more than 50 percent of the total com-*
19 *bined voting power of all classes of stock entitled*
20 *to vote or more than 50 percent of the total value*
21 *of shares of all classes of stock of each corpora-*
22 *tion, taking into account the stock ownership of*
23 *each such person only to the extent such stock*
24 *ownership is identical with respect to each such*
25 *corporation.’*

1 “(B) *APPLICABLE PROVISION.*—For pur-
2 poses of this paragraph, an applicable provision
3 is any provision of law (other than this part)
4 which incorporates the definition of controlled
5 group of corporations under subsection (a).”.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply to taxable years beginning after the date
8 of the enactment of this Act.

9 **SEC. 5683. MANDATORY BASIS ADJUSTMENTS IN CONNEC-**
10 **TION WITH PARTNERSHIP DISTRIBUTIONS**
11 **AND TRANSFERS OF PARTNERSHIP INTER-**
12 **ESTS.**

13 (a) *IN GENERAL.*—Section 754 is repealed.

14 (b) *ADJUSTMENT TO BASIS OF UNDISTRIBUTED PART-*
15 *NERSHIP PROPERTY.*—Section 734 is amended—

16 (1) by striking “, with respect to which the elec-
17 tion provided in section 754 is in effect,” in the mat-
18 ter preceding paragraph (1) of subsection (b),

19 (2) by striking “(as adjusted by section 732(d))”
20 both places it appears in subsection (b),

21 (3) by striking the last sentence of subsection (b),

22 (4) by striking subsection (a) and by redesignig-
23 nating subsections (b) and (c) as subsections (a) and
24 (b), respectively, and

25 (5) by striking “**OPTIONAL**” in the heading.

1 (c) *ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-*
2 *ERTY.*—Section 743 is amended—

3 (1) by striking “with respect to which the elec-
4 tion provided in section 754 is in effect” in the mat-
5 ter preceding paragraph (1) of subsection (b),

6 (2) by striking subsection (a) and by redesignig-
7 nating subsections (b) and (c) as subsections (a) and
8 (b), respectively,

9 (3) by adding at the end the following new sub-
10 section:

11 “(c) *ELECTION TO ADJUST BASIS FOR TRANSFERS*
12 *UPON DEATH OF PARTNER.*—Subsection (a) shall not
13 apply and no adjustments shall be made in the case of any
14 transfer of an interest in a partnership upon the death of
15 a partner unless an election to do so is made by the partner-
16 ship. Such an election shall apply with respect to all such
17 transfers of interests in the partnership. Any election under
18 section 754 in effect on the date of the enactment of this
19 subsection shall constitute an election made under this sub-
20 section. Such election may be revoked by the partnership,
21 subject to such limitations as may be provided by regula-
22 tions prescribed by the Secretary.”, and

23 (4) by striking “**OPTIONAL**” in the heading.

24 (d) *CONFORMING AMENDMENTS.*—

25 (1) Subsection (d) of section 732 is repealed.

1 (2) *Section 755(a) is amended—*

2 (A) *by striking “section 734(b) (relating to*
3 *the optional adjustment” and inserting “section*
4 *734(a) (relating to the adjustment”, and*

5 (B) *by striking “section 743(b) (relating to*
6 *the optional adjustment” and inserting “section*
7 *743(a) (relating to the adjustment”.*

8 (3) *Section 761(e)(2) is amended by striking*
9 *“optional”.*

10 (4) *Section 774(a) is amended by striking*
11 *“743(b)” both places it appears and inserting*
12 *“743(a)”.*

13 (5) *The item relating to section 734 in the table*
14 *of sections for subpart B of part II of subchapter K*
15 *of chapter 1 is amended by striking “Optional”.*

16 (6) *The item relating to section 743 in the table*
17 *of sections for subpart C of part II of subchapter K*
18 *of chapter 1 is amended by striking “Optional”.*

19 (e) *EFFECTIVE DATES.—*

20 (1) *IN GENERAL.—Except as provided in para-*
21 *graph (2), the amendments made by this section shall*
22 *apply to transfers and distributions made after the*
23 *date of the enactment of this Act.*

1 (2) *REPEAL OF SECTION 732(d).*—The amend-
2 ments made by subsections (b)(2) and (d)(1) shall
3 apply to—

4 (A) except as provided in subparagraph
5 (B), transfers made after the date of the enact-
6 ment of this Act, and

7 (B) in the case of any transfer made on or
8 before such date to which section 732(d) applies,
9 distributions made after the date which is 2
10 years after such date of enactment.

11 **SEC. 5684. CLASS LIVES FOR UTILITY GRADING COSTS.**

12 (a) *GAS UTILITY PROPERTY.*—Section 168(e)(3)(E)
13 (defining 15-year property) is amended by striking “and”
14 at the end of clause (ii), by striking the period at the end
15 of clause (iii) and inserting “, and”, and by adding at the
16 end the following new clause:

17 “(iv) initial clearing and grading land
18 improvements with respect to gas utility
19 property.”.

20 (b) *ELECTRIC UTILITY PROPERTY.*—Section 168(e)(3)
21 is amended by adding at the end the following new subpara-
22 graph:

23 “(F) *20-YEAR PROPERTY.*—The term ‘20-
24 year property’ means initial clearing and grad-
25 ing land improvements with respect to any elec-

1 *tric utility transmission and distribution*
 2 *plant.”.*

3 (c) *CONFORMING AMENDMENTS.*—*The table contained*
 4 *in section 168(g)(3)(B) is amended—*

5 (1) *by inserting “or (E)(iv)” after “(E)(iii)”*,
 6 *and*

7 (2) *by adding at the end the following new item:*
 “(F) 25”.

8 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 9 *section shall apply to property placed in service after the*
 10 *date of the enactment of this Act.*

11 **SEC. 5685. CONSISTENT AMORTIZATION OF PERIODS FOR**
 12 **INTANGIBLES.**

13 (a) *START-UP EXPENDITURES.*—

14 (1) *ALLOWANCE OF DEDUCTION.*—*Paragraph (1)*
 15 *of section 195(b) (relating to start-up expenditures) is*
 16 *amended to read as follows:*

17 “(1) *ALLOWANCE OF DEDUCTION.*—*If a taxpayer*
 18 *elects the application of this subsection with respect to*
 19 *any start-up expenditures—*

20 “(A) *the taxpayer shall be allowed a deduc-*
 21 *tion for the taxable year in which the active*
 22 *trade or business begins in an amount equal to*
 23 *the lesser of—*

1 “(i) the amount of start-up expendi-
2 tures with respect to the active trade or
3 business, or

4 “(ii) \$5,000, reduced (but not below
5 zero) by the amount by which such start-up
6 expenditures exceed \$50,000, and

7 “(B) the remainder of such start-up expend-
8 itures shall be allowed as a deduction ratably
9 over the 180-month period beginning with the
10 month in which the active trade or business be-
11 gins.”.

12 (2) *CONFORMING AMENDMENT.*—Subsection (b)
13 of section 195 is amended by striking “AMORTIZE”
14 and inserting “DEDUCT” in the heading.

15 (b) *ORGANIZATIONAL EXPENDITURES.*—Subsection (a)
16 of section 248 (relating to organizational expenditures) is
17 amended to read as follows:

18 “(a) *ELECTION TO DEDUCT.*—If a corporation elects
19 the application of this subsection (in accordance with regu-
20 lations prescribed by the Secretary) with respect to any or-
21 ganizational expenditures—

22 “(1) the corporation shall be allowed a deduction
23 for the taxable year in which the corporation begins
24 business in an amount equal to the lesser of—

1 “(A) the amount of organizational expendi-
2 tures with respect to the taxpayer, or

3 “(B) \$5,000, reduced (but not below zero) by
4 the amount by which such organizational ex-
5 penditures exceed \$50,000, and

6 “(2) the remainder of such organizational ex-
7 penditures shall be allowed as a deduction ratably
8 over the 180-month period beginning with the month
9 in which the corporation begins business.”.

10 (c) *TREATMENT OF ORGANIZATIONAL AND SYNDICA-*
11 *TION FEES OR PARTNERSHIPS.—*

12 (1) *IN GENERAL.—*Section 709(b) (relating to
13 amortization of organization fees) is amended by re-
14 designating paragraph (2) as paragraph (3) and by
15 amending paragraph (1) to read as follows:

16 “(1) *ALLOWANCE OF DEDUCTION.—*If a taxpayer
17 elects the application of this subsection (in accordance
18 with regulations prescribed by the Secretary) with re-
19 spect to any organizational expenses—

20 “(A) the taxpayer shall be allowed a deduc-
21 tion for the taxable year in which the partner-
22 ship begins business in an amount equal to the
23 lesser of—

24 “(i) the amount of organizational ex-
25 penses with respect to the partnership, or

1 “(ii) \$5,000, reduced (but not below
2 zero) by the amount by which such organi-
3 zational expenses exceed \$50,000, and

4 “(B) the remainder of such organizational
5 expenses shall be allowed as a deduction ratably
6 over the 180-month period beginning with the
7 month in which the partnership begins business.

8 “(2) *DISPOSITIONS BEFORE CLOSE OF AMORTI-*
9 *ZATION PERIOD.*—*In any case in which a partnership*
10 *is liquidated before the end of the period to which*
11 *paragraph (1)(B) applies, any deferred expenses at-*
12 *tributable to the partnership which were not allowed*
13 *as a deduction by reason of this section may be de-*
14 *ducted to the extent allowable under section 165.”.*

15 (2) *CONFORMING AMENDMENT.*—*Subsection (b)*
16 *of section 709 is amended by striking “AMORTIZA-*
17 *TION” and inserting “DEDUCTION” in the heading.*

18 (d) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to amounts paid or incurred after the*
20 *date of the enactment of this Act.*

1 ***Subtitle I—Tax-Exempt Financing***
 2 ***of Highway Projects and Rail-***
 3 ***Truck Transfer Facilities***

4 **SEC. 5691. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS**
 5 **AND RAIL-TRUCK TRANSFER FACILITIES.**

6 (a) *TREATMENT AS EXEMPT FACILITY BOND.*—Sub-
 7 section (a) of section 142 (relating to exempt facility bond)
 8 is amended by striking “or” at the end of paragraph (12),
 9 by striking the period at the end of paragraph (13), and
 10 by adding at the end the following:

11 “(14) qualified highway facilities, or

12 “(15) qualified surface freight transfer facili-
 13 ties.”.

14 (b) *QUALIFIED HIGHWAY FACILITIES AND QUALIFIED*
 15 *SURFACE FREIGHT TRANSFER FACILITIES.*—Section 142 is
 16 amended by adding at the end the following:

17 “(l) *QUALIFIED HIGHWAY AND SURFACE FREIGHT*
 18 *TRANSFER FACILITIES.*—

19 “(1) *QUALIFIED HIGHWAY FACILITIES.*—For
 20 purposes of subsection (a)(14), the term ‘qualified
 21 highway facilities’ means—

22 “(A) any surface transportation project
 23 which receives Federal assistance under title 23,
 24 United States Code (as in effect on the date of
 25 the enactment of this subsection), or

1 “(B) any project for an international bridge
2 or tunnel for which an international entity au-
3 thorized under Federal or State law is respon-
4 sible and which receives Federal assistance under
5 such title 23.

6 “(2) QUALIFIED SURFACE FREIGHT TRANSFER
7 FACILITIES.—For purposes of subsection (a)(15), the
8 term ‘qualified surface freight transfer facilities’
9 means facilities for the transfer of freight from truck
10 to rail or rail to truck (including any temporary
11 storage facilities directly related to such transfers)
12 which receives Federal assistance under either title 23
13 or title 49, United States Code (as in effect on the
14 date of the enactment of this subsection).

15 “(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT
16 FINANCING FOR FACILITIES.—

17 “(A) IN GENERAL.—An issue shall not be
18 treated as an issue described in subsection
19 (a)(14) or (a)(15) if the aggregate face amount
20 of bonds issued by any State pursuant thereto
21 (when added to the aggregate face amount of
22 bonds previously so issued) exceeds
23 \$15,000,000,000.

24 “(B) ALLOCATION BY SECRETARY OF
25 TRANSPORTATION.—The Secretary of Transpor-

1 *countable, Flexible, and Efficient Transportation Equity*
2 *Act of 2004*”.

3 (c) *EFFECTIVE DATE.*—

4 (1) *SALES, ETC.*—*The amendments made by this*
5 *section shall apply to sales and uses on or after the*
6 *first day of the first month which begins more than*
7 *4 weeks after the date of the enactment of this Act.*

8 (2) *DELIVERIES.*—*For purposes of paragraph*
9 *(1) and section 4131 of the Internal Revenue Code of*
10 *1986, in the case of sales on or before the effective date*
11 *described in such paragraph for which delivery is*
12 *made after such date, the delivery date shall be con-*
13 *sidered the sale date.*

14 **SEC. 5693. ADDITION OF VACCINES AGAINST INFLUENZA TO**
15 **LIST OF TAXABLE VACCINES.**

16 (a) *IN GENERAL.*—*Section 4132(a)(1) (defining tax-*
17 *able vaccine), as amended by section 5692 of this Act, is*
18 *amended by adding at the end the following new subpara-*
19 *graph:*

20 “(N) *Any trivalent vaccine against influ-*
21 *enza.*”.

22 (b) *EFFECTIVE DATE.*—

23 (1) *SALES, ETC.*—*The amendment made by this*
24 *section shall apply to sales and uses on or after the*
25 *later of—*

1 (A) the first day of the first month which
2 begins more than 4 weeks after the date of the en-
3 actment of this Act, or

4 (B) the date on which the Secretary of
5 Health and Human Services lists any vaccine
6 against influenza for purposes of compensation
7 for any vaccine-related injury or death through
8 the Vaccine Injury Compensation Trust Fund.

9 (2) *DELIVERIES.*—For purposes of paragraph
10 (1) and section 4131 of the Internal Revenue Code of
11 1986, in the case of sales on or before the effective date
12 described in such paragraph for which delivery is
13 made after such date, the delivery date shall be con-
14 sidered the sale date.

15 **SEC. 5694. EXTENSION OF AMORTIZATION OF INTANGIBLES**
16 **TO SPORTS FRANCHISES.**

17 (a) *IN GENERAL.*—Section 197(e) (relating to excep-
18 tions to definition of section 197 intangible) is amended
19 by striking paragraph (6) and by redesignating paragraphs
20 (7) and (8) as paragraphs (6) and (7), respectively.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1)(A) Section 1056 (relating to basis limitation
23 for player contracts transferred in connection with
24 the sale of a franchise) is repealed.

1 (B) *The table of sections for part IV of sub-*
2 *chapter O of chapter 1 is amended by striking the*
3 *item relating to section 1056.*

4 (2) *Section 1245(a) (relating to gain from dis-*
5 *position of certain depreciable property) is amended*
6 *by striking paragraph (4).*

7 (3) *Section 1253 (relating to transfers of fran-*
8 *chises, trademarks, and trade names) is amended by*
9 *striking subsection (e).*

10 (c) *EFFECTIVE DATES.—*

11 (1) *IN GENERAL.—Except as provided in para-*
12 *graph (2), the amendments made by this section shall*
13 *apply to property acquired after the date of the enact-*
14 *ment of this Act.*

15 (2) *SECTION 1245.—The amendment made by*
16 *subsection (b)(2) shall apply to franchises acquired*
17 *after the date of the enactment of this Act.*

18 **TITLE VI—TRANSPORTATION**
19 **DISCRETIONARY SPENDING**
20 **GUARANTEE AND BUDGET**
21 **OFFSETS**

22 **SEC. 6101. SENSE OF THE SENATE ON OVERALL FEDERAL**
23 **BUDGET.**

24 *It is the sense of the Senate that—*

1 (1) *comprehensive statutory budget enforcement*
2 *measures, the jurisdiction of which lies with the Sen-*
3 *ate Budget Committee and Senate Governmental Af-*
4 *airs Committee, should—*

5 (A) *be enacted this year; and*

6 (B) *address all areas of the Federal budget,*
7 *including discretionary spending, direct spend-*
8 *ing, and revenues; and*

9 (2) *special allocations for transportation or any*
10 *other categories of spending should be considered in*
11 *that context and be consistent with the rest of the*
12 *Federal budget.*

13 **SEC. 6102. DISCRETIONARY SPENDING CATEGORIES.**

14 (a) *DEFINITIONS.—*

15 (1) *HIGHWAY CATEGORY.—Section 250(c)(4)(B)*
16 *of the Balanced Budget and Emergency Deficit Con-*
17 *trol Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amend-*
18 *ed—*

19 (A) *by striking “Transportation Equity Act*
20 *for the 21st Century” and inserting “Safe, Ac-*
21 *countable, Flexible, and Efficient Transportation*
22 *Equity Act of 2004”; and*

23 (B) *by adding at the end the following:*

24 “(v) 69–8158–0–7–401 (*Motor Carrier*
25 *Safety Grants*).

1 “(vi) 69–8159–0–7–401 (*Motor Carrier*
2 *Safety Operations and Programs*).”.

3 (2) *MASS TRANSIT CATEGORY*.—*Section*
4 250(c)(4) of the *Balanced Budget and Emergency*
5 *Deficit Control Act of 1985* (2 U.S.C. 900(c)(4)) is
6 amended by striking subparagraph (C) and inserting
7 the following:

8 “(C) *MASS TRANSIT CATEGORY*.—*The term*
9 ‘*mass transit category*’ means the following
10 budget accounts, or portions of the accounts, that
11 are subject to the obligation limitations on con-
12 tract authority provided in the *Safe, Account-*
13 *able, Flexible, and Efficient Transportation Eq-*
14 *uity Act of 2004* or for which appropriations are
15 provided in accordance with authorizations con-
16 tained in that Act:

17 “(i) 69–1120–0–1–401 (*Administrative*
18 *Expenses*).

19 “(ii) 69–1134–0–1–401 (*Capital In-*
20 *vestment Grants*).

21 “(iii) 69–8191–0–7–401 (*Discretionary*
22 *Grants*).

23 “(iv) 69–1129–0–1–401 (*Formula*
24 *Grants*).

1 “(v) 69-8303-0-7-401 (Formula
2 *Grants and Research*).

3 “(vi) 69-1127-0-1-401 (*Interstate*
4 *Transfer Grants—Transit*).

5 “(vii) 69-1125-0-1-401 (*Job Access*
6 *and Reverse Commute*).

7 “(viii) 69-1122-0-1-401 (*Miscella-*
8 *neous Expired Accounts*).

9 “(ix) 69-1139-0-1-401 (*Major Capital*
10 *Investment Grants*).

11 “(x) 69-1121-0-1-401 (*Research,*
12 *Training and Human Resources*).

13 “(xi) 69-8350-0-7-401 (*Trust Fund*
14 *Share of Expenses*).

15 “(xii) 69-1137-0-1-401 (*Transit*
16 *Planning and Research*).

17 “(xiii) 69-1136-0-1-401 (*University*
18 *Transportation Research*).

19 “(xiv) 69-1128-0-1-401 (*Washington*
20 *Metropolitan Area Transit Authority*).”.

21 (b) *HIGHWAY FUNDING REVENUE ALIGNMENT*.—Sec-
22 tion 251(b)(1)(B) of the *Balanced Budget and Emergency*
23 *Deficit Control Act of 1985* (2 U.S.C. 901(b)(1)(B)) is
24 amended—

25 (1) in clause (i)—

1 (A) by inserting “for each of fiscal years
2 2006 through 2009” after “submits the budget”;

3 (B) by inserting “the obligation limitation
4 and outlay limit for” after “adjustments to”;
5 and

6 (C) by striking “provided in clause
7 (ii)(I)(cc).” and inserting the following: “follows:

8 “(I) OMB shall take the actual
9 level of highway receipts for the year
10 before the current year and subtract
11 the sum of the estimated level of high-
12 way receipts in clause (iii), plus any
13 amount previously calculated under
14 clauses (i)(II) and (ii) for that year.

15 “(II) OMB shall take the current
16 estimate of highway receipts for the
17 current year and subtract the esti-
18 mated level of highway receipts in
19 clause (iii) for that year.

20 “(III) OMB shall—

21 “(aa) take the sum of the
22 amounts calculated under sub-
23 clauses (I) and (II) and add that
24 amount to the obligation limita-
25 tion set forth in section 6103 of

1 *the Safe, Accountable, Flexible,*
2 *and Efficient Transportation Eq-*
3 *uity Act of 2004 for the highway*
4 *category for the budget year, and*
5 *calculate the outlay change result-*
6 *ing from that change in obliga-*
7 *tions relative to that amount for*
8 *the budget year and each outyear*
9 *using current estimates; and*

10 “(bb) after making the cal-
11 *ulation under item (aa), adjust*
12 *the obligation limitation set forth*
13 *in section 6103 of the Safe, Ac-*
14 *countable, Flexible, and Efficient*
15 *Transportation Equity Act of*
16 *2004 for the budget year by add-*
17 *ing the amount calculated under*
18 *subclauses (I) and (II).”;*

19 (2) *by striking clause (ii) and inserting the fol-*
20 *lowing:*

21 “(ii) *When the President submits the*
22 *supplementary budget estimates for each of*
23 *fiscal years 2006 through 2009 under sec-*
24 *tion 1106 of title 31, United States Code,*
25 *OMB’s Mid-Session Review shall include*

1 *adjustments to the obligation limitation and*
2 *outlay limit for the highway category for*
3 *the budget year and each outyear as follows:*

4 “(I) OMB shall take the most re-
5 cent estimate of highway receipts for
6 the current year (based on OMB’s Mid-
7 Session Review) and subtract the esti-
8 mated level of highway receipts in
9 clause (iii) plus any amount pre-
10 viously calculated and included in the
11 President’s Budget under clause (i)(II)
12 for that year.

13 “(II) OMB shall—

14 “(aa) take the amount cal-
15 culated under subclause (I) and
16 add that amount to the amount of
17 obligations set forth in section
18 6103 of the Safe, Accountable,
19 Flexible, and Efficient Transpor-
20 tation Equity Act of 2004 for the
21 highway category for the budget
22 year, and calculate the outlay
23 change resulting from that change
24 in obligations relative to that
25 amount for the budget year and

1 *each outyear using current esti-*
2 *mates; and*

3 *“(bb) after making the cal-*
4 *ulation under item (aa), adjust*
5 *the amount of obligations set forth*
6 *in section 6103 of the Safe, Ac-*
7 *countable, Flexible, and Efficient*
8 *Transportation Equity Act of*
9 *2004 for the budget year by add-*
10 *ing the amount calculated under*
11 *subclause (I).”;* and

12 (3) *by adding at the end the following:*

13 *“(iii) The estimated level of highway*
14 *receipts for the purpose of this subpara-*
15 *graph are—*

16 *“(I) for fiscal year 2004,*
17 *\$29,945,938,902;*

18 *“(II) for fiscal year 2005,*
19 *\$36,294,778,392;*

20 *“(III) for fiscal year 2006,*
21 *\$37,766,517,123;*

22 *“(IV) for fiscal year 2007,*
23 *\$38,795,061,111;*

24 *“(V) for fiscal year 2008,*
25 *\$39,832,795,606; and*

1 “(VI) for fiscal year 2009,
2 \$40,964,722,457.

3 “(iv) In this subparagraph, the term
4 “highway receipts” means the governmental
5 receipts and interest credited to the highway
6 account of the Highway Trust Fund.”.

7 (c) CONTINUATION OF SEPARATE SPENDING CAT-
8 EGORIES.—For the purpose of section 251(c) of the Bal-
9 anced Budget and Emergency Deficit Control Act of 1985
10 (2 U.S.C. 901(c)), the discretionary spending limits for the
11 highway category and the mass transit category shall be—

12 (1) for fiscal year 2004—

13 (A) \$28,876,732,956 for the highway cat-
14 egory; and

15 (B) \$6,262,000,000 for the mass transit cat-
16 egory;

17 (2) for fiscal year 2005—

18 (A) \$31,991,246,160 for the highway cat-
19 egory; and

20 (B) \$6,903,000,000 for the mass transit cat-
21 egory;

22 (3) for fiscal year 2006—

23 (A) \$35,598,640,776 for the highway cat-
24 egory; and

1 (B) \$7,974,000,000 for the mass transit cat-
2 egory;

3 (4) for fiscal year 2007—

4 (A) \$37,871,760,938 for the highway cat-
5 egory; and

6 (B) \$8,658,000,000 for the mass transit cat-
7 egory;

8 (5) for fiscal year 2008—

9 (A) \$38,722,907,474 for the highway cat-
10 egory; and

11 (B) \$9,222,000,000 for the mass transit cat-
12 egory; and

13 (6) for fiscal year 2009—

14 (A) \$40,537,563,667 for the highway cat-
15 egory; and

16 (B) \$9,897,000,000 for the mass transit cat-
17 egory.

18 (d) *ADDITIONAL ADJUSTMENTS.*—Section 251(b)(1) of
19 the *Balanced Budget and Emergency Deficit Control Act*
20 of 1985 (2 U.S.C. 901(b)(1)) is amended—

21 (1) in subparagraph (C)—

22 (A) in clause (i), by striking “fiscal years
23 2000, 2001, 2002, or 2003,” and inserting “each
24 of fiscal years 2006, 2007, 2008, and 2009,”; and

1 (B) in clause (ii), by striking “2002 and
2 2003” and inserting “2008 and 2009”; and

3 (2) in subparagraph (D)—

4 (A) in clause (i)—

5 (i) by striking “1999” and inserting
6 “2005”;

7 (ii) by striking “2000 through 2003”
8 and inserting “2006 through 2009”; and

9 (iii) by striking “section 8103 of the
10 Transportation Equity Act for the 21st Cen-
11 tury” and inserting “section 6102 of the
12 Safe, Accountable, Flexible, and Efficient
13 Transportation Equity Act of 2004”; and

14 (B) in clause (ii), by striking “2000, 2001,
15 2002, or 2003” and inserting “2006, 2007, 2008,
16 and 2009”.

17 **SEC. 6103. LEVEL OF OBLIGATION LIMITATIONS.**

18 (a) *HIGHWAY CATEGORY.*—For the purpose of section
19 *251(b) of the Balanced Budget and Emergency Deficit Con-*
20 *trol Act of 1985 (2 U.S.C. 901(b)), the level of obligation*
21 *limitations for the highway category is—*

22 (1) for fiscal year 2004, \$34,651,000,000;

23 (2) for fiscal year 2005, \$38,927,000,000;

24 (3) for fiscal year 2006, \$40,186,000,000;

25 (4) for fiscal year 2007, \$40,229,000,000;

1 (5) for fiscal year 2008, \$40,563,000,000; and

2 (6) for fiscal year 2009, \$45,622,000,000.

3 (b) *MASS TRANSIT CATEGORY*.—For the purpose of
4 section 251(b) of the *Balanced Budget and Emergency Def-*
5 *icit Control Act of 1985 (2 U.S.C. 901(b))*, the level of obli-
6 *gation limitations for the mass transit category is—*

7 (1) for fiscal year 2004, \$7,265,877,000;

8 (2) for fiscal year 2005, \$8,650,000,000;

9 (3) for fiscal year 2006, \$9,085,123,000;

10 (4) for fiscal year 2007, \$9,600,000,000;

11 (5) for fiscal year 2008, \$10,490,000,000; and

12 (6) for fiscal year 2009, \$11,430,000,000.

13 *For the purpose of this subsection, the term “obligation lim-*
14 *itations” means the sum of budget authority and obligation*
15 *limitations.*

16 **TITLE VII—MISCELLANEOUS**
17 **PROVISIONS**

18 **SEC. 7001. REIMBURSEMENT OF CERTAIN TRANSPOR-**
19 **TATION COSTS INCURRED BY MEMBERS OF**
20 **THE UNITED STATES ARMED FORCES ON**
21 **REST AND RECUPERATION LEAVE.**

22 *The Secretary of Defense shall reimburse a member of*
23 *the United States Armed Forces (out of funds available for*
24 *the Armed Forces for operation and maintenance for the*
25 *relevant fiscal year) for transportation expenses incurred*

1 *by such member for 1 round trip by such member between*
2 *2 locations within the United States in connection with*
3 *leave taken under the Central Command Rest and Recuper-*
4 *ation Leave Program during the period beginning on Sep-*
5 *tember 25, 2003, and ending on December 18, 2003.*

6 **TITLE VIII—SOLID WASTE**
7 **DISPOSAL**

8 **SEC. 8001. INCREASED USE OF RECOVERED MINERAL COM-**
9 **PONENT IN FEDERALLY FUNDED PROJECTS**
10 **INVOLVING PROCUREMENT OF CEMENT OR**
11 **CONCRETE.**

12 *(a) IN GENERAL.—Subtitle F of the Solid Waste Dis-*
13 *posal Act (42 U.S.C. 6961 et seq.) is amended by adding*
14 *at the end the following:*

15 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COM-**
16 **PONENT IN FEDERALLY FUNDED PROJECTS**
17 **INVOLVING PROCUREMENT OF CEMENT OR**
18 **CONCRETE.**

19 *“(a) DEFINITIONS.—In this section:*

20 *“(1) AGENCY HEAD.—The term ‘agency head’*
21 *means—*

22 *“(A) the Secretary of Transportation; and*

23 *“(B) the head of each other Federal agency*
24 *that on a regular basis procures, or provides*
25 *Federal funds to pay or assist in paying the cost*

1 *of procuring, material for cement or concrete*
2 *projects.*

3 “(2) *CEMENT OR CONCRETE PROJECT.*—*The*
4 *term ‘cement or concrete project’ means a project for*
5 *the construction or maintenance of a highway or*
6 *other transportation facility or a Federal, State, or*
7 *local government building or other public facility*
8 *that—*

9 “(A) *involves the procurement of cement or*
10 *concrete; and*

11 “(B) *is carried out in whole or in part*
12 *using Federal funds.*

13 “(3) *RECOVERED MINERAL COMPONENT.*—*The*
14 *term ‘recovered mineral component’ means—*

15 “(A) *ground granulated blast furnace slag;*

16 “(B) *coal combustion fly ash; and*

17 “(C) *any other waste material or byproduct*
18 *recovered or diverted from solid waste that the*
19 *Administrator, in consultation with an agency*
20 *head, determines should be treated as recovered*
21 *mineral component under this section for use in*
22 *cement or concrete projects paid for, in whole or*
23 *in part, by the agency head.*

24 “(b) *IMPLEMENTATION OF REQUIREMENTS.*—

1 “(1) *IN GENERAL.*—Not later than 1 year after
2 the date of enactment of this section, the Adminis-
3 trator and each agency head shall take such actions
4 as are necessary to implement fully all procurement
5 requirements and incentives in effect as of the date of
6 enactment of this section (including guidelines under
7 section 6002) that provide for the use of cement and
8 concrete incorporating recovered mineral component
9 in cement or concrete projects.

10 “(2) *PRIORITY.*—In carrying out paragraph (1)
11 an agency head shall give priority to achieving great-
12 er use of recovered mineral component in cement or
13 concrete projects for which recovered mineral compo-
14 nents historically have not been used or have been
15 used only minimally.

16 “(3) *CONFORMANCE.*—The Administrator and
17 each agency head shall carry out this subsection in
18 accordance with section 6002.

19 “(c) *FULL IMPLEMENTATION STUDY.*—

20 “(1) *IN GENERAL.*—The Administrator, in co-
21 operation with the Secretary of Transportation and
22 the Secretary of Energy, shall conduct a study to de-
23 termine the extent to which current procurement re-
24 quirements, when fully implemented in accordance
25 with subsection (b), may realize energy savings and

1 *environmental benefits attainable with substitution of*
2 *recovered mineral component in cement used in ce-*
3 *ment or concrete projects.*

4 “(2) *MATTERS TO BE ADDRESSED.—The study*
5 *shall—*

6 “(A) *quantify the extent to which recovered*
7 *mineral components are being substituted for*
8 *Portland cement, particularly as a result of cur-*
9 *rent procurement requirements, and the energy*
10 *savings and environmental benefits associated*
11 *with that substitution;*

12 “(B) *identify all barriers in procurement*
13 *requirements to greater realization of energy sav-*
14 *ings and environmental benefits, including bar-*
15 *riers resulting from exceptions from current law;*
16 *and*

17 “(C)(i) *identify potential mechanisms to*
18 *achieve greater substitution of recovered mineral*
19 *component in types of cement or concrete projects*
20 *for which recovered mineral components histori-*
21 *cally have not been used or have been used only*
22 *minimally;*

23 “(ii) *evaluate the feasibility of establishing*
24 *guidelines or standards for optimized substi-*

1 *tution rates of recovered mineral component in*
2 *those cement or concrete projects; and*

3 *“(iii) identify any potential environmental*
4 *or economic effects that may result from greater*
5 *substitution of recovered mineral component in*
6 *those cement or concrete projects.*

7 *“(3) REPORT.—Not later than 30 months after*
8 *the date of enactment of this section, the Adminis-*
9 *trator shall submit to Congress a report on the study.*

10 *“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—*
11 *Unless the study conducted under subsection (c) identifies*
12 *any effects or other problems described in subsection*
13 *(c)(2)(C)(iii) that warrant further review or delay, the Ad-*
14 *ministrator and each agency head shall, not later than 1*
15 *year after the release of the report in accordance with sub-*
16 *section (c)(3), take additional actions authorized under this*
17 *Act to establish procurement requirements and incentives*
18 *that provide for the use of cement and concrete with in-*
19 *creased substitution of recovered mineral component in the*
20 *construction and maintenance of cement or concrete*
21 *projects, so as to—*

22 *“(1) realize more fully the energy savings and*
23 *environmental benefits associated with increased sub-*
24 *stitution; and*

1 “(2) *eliminate barriers identified under sub-*
2 *section (c).*”

3 “(e) *EFFECT OF SECTION.—Nothing in this section af-*
4 *fects the requirements of section 6002 (including the guide-*
5 *lines and specifications for implementing those require-*
6 *ments).*”.

7 (b) *TABLE OF CONTENTS AMENDMENT.—The table of*
8 *contents in section 1001 of the Solid Waste Disposal Act*
9 *(42 U.S.C. prec. 6901) is amended by adding after the item*
10 *relating to section 6004 the following:*

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

11 **SEC. 8002. USE OF GRANULAR MINE TAILINGS.**

12 (a) *IN GENERAL.—Subtitle F of the Solid Waste Dis-*
13 *posal Act (42 U.S.C. 6961 et seq.) (as amended by section*
14 *8001(a)) is amended by adding at the end the following:*

15 **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

16 “(a) *MINE TAILINGS.—*

17 “(1) *IN GENERAL.—Not later than 180 days*
18 *after the date of enactment of this section, the Admin-*
19 *istrator, in consultation with the Secretary of Trans-*
20 *portation and heads of other Federal agencies, shall*
21 *establish criteria (including an evaluation of whether*
22 *to establish a numerical standard for concentration of*
23 *lead and other hazardous substances) for the safe and*
24 *environmentally protective use of granular mine*

1 *tailings from the Tar Creek, Oklahoma Mining Dis-*
2 *trict, known as ‘chat’, for—*

3 *“(A) cement or concrete projects; and*

4 *“(B) transportation construction projects*
5 *(including transportation construction projects*
6 *involving the use of asphalt) that are carried*
7 *out, in whole or in part, using Federal funds.*

8 *“(2) REQUIREMENTS.—In establishing criteria*
9 *under paragraph (1), the Administrator shall con-*
10 *sider—*

11 *“(A) the current and previous uses of*
12 *granular mine tailings as an aggregate for as-*
13 *phalt; and*

14 *“(B) any environmental and public health*
15 *risks and benefits derived from the removal,*
16 *transportation, and use in transportation*
17 *projects of granular mine tailings.*

18 *“(3) PUBLIC PARTICIPATION.—In establishing*
19 *the criteria under paragraph (1), the Administrator*
20 *shall solicit and consider comments from the public.*

21 *“(4) APPLICABILITY OF CRITERIA.—On the es-*
22 *tablishment of the criteria under paragraph (1), any*
23 *use of the granular mine tailings described in para-*
24 *graph (1) in a transportation project that is carried*

1 *out, in whole or in part, using Federal funds, shall*
2 *meet the criteria established under paragraph (1).*

3 “(b) *EFFECT OF SECTIONS.—Nothing in this section*
4 *or section 6005 affects any requirement of any law (includ-*
5 *ing a regulation) in effect on the date of enactment of this*
6 *section.*”.

7 (b) *CONFORMING AMENDMENT.—The table of contents*
8 *in section 1001 of the Solid Waste Disposal Act (42 U.S.C.*
9 *prec. 6901) (as amended by section 8001(b)) is amended*
10 *by adding after the item relating to section 6005 the fol-*
11 *lowing:*

 “*Sec. 6006. Use of granular mine tailings.*”.

 Attest:

Secretary.

108TH CONGRESS
2^D SESSION

H. R. 3550

AMENDMENT