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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father and our God, who by Your word spoke the world into being, we acknowledge how little we often care about this world You love so much. We know little of where the world hurts and even less why.

Lord, use our Senators to ease the hurt in our world. As they encounter problems that seem to defy solutions, give them Your wisdom so they will not weary of well doing. May they be slow to anger and abounding in Your steadfast love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 15, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business until noon. The Republicans will control the first 30 minutes, and the majority the second 30 minutes.

At noon the Senate will resume consideration of the Jordan nomination to be a circuit court judge for the Eleventh Circuit. Following that vote, the Senate will resume consideration of the surface transportation bill. There could be additional rollcall votes on amendments to the bill today.

AMERICA'S INFRASTRUCTURE

Mr. REID. Madam President, we are here today as a result of stalling by my Republican colleagues. We have a judge for whom the vote was overwhelmingly in his favor. It was 89 for him, with 4 or 5 against him on a motion to proceed. But now we are being forced to eat up 30 hours of valuable time, just sitting around and doing nothing. It is really unfortunate.

We have not confirmed the judge yet because under the rules I have had to file cloture on this noncontroversial judge. After I file cloture, and cloture is invoked, and then the Republicans get 30 hours under the Senate rules. This has happened scores of times—scores of times—during the past year, all last year, and certainly it is already happening this year. We can't move to anything unless we file cloture.

Early in this Congress, Senators TOM UDALL of New Mexico, MERKLEY of Oregon, and others suggested the rules be changed, and in good faith a number of Senators believed: Well, let's see how the system works if we make a few minor changes—hoping things would get better because they were told they would get better. We were told the other side would not make us file motions to proceed to every piece of legislation that came up. Absolutely untrue. We have virtually had to file cloture on everything. We have wasted weeks of this Congress, months of this Congress, on dilatory tactics.

We have a bill before this body that is so very important, creating 2 million jobs. Is it something that Senator BOXER, the chairman of the committee, and Senator INHOFE, the ranking member, just dreamed up and said let's try something new for a change? No. The legislation allowing us to have a highway system expires at the end of March. So we have to do something.

This isn't something where Senator BOXER said: Well, I think this is a great idea. Her idea is not unique, nor is Senator INHOFE's idea unique. It goes back to when Eisenhower was a major in the Army, and he was asked to bring a caravan of vehicles across the country. He was struck with this idea when he saw that the roads were awful. So after his successful tour of duty in the military and he became President of our country, he decided he wanted to do something about it.

Here is what President Eisenhower did: He got the Congress to appropriate $50 billion. In today's dollars, that would be $½ trillion. He got that through Congress. He wanted to build about 50,000 miles of roads in this country so that when another young major was directed to bring military vehicles across the country, he would have roads, highways, and freeways to do

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

that. Eisenhower said it would free the Nation from the ''antiquated shackles of secondary roads.'' That is what General Eisenhower said. It would give America a modern highway system for moving people and goods across the country.

Presidents since that period of time have recommitted to this idea. Johnson did it. Someone who spoke about it as much, if not more, than anyone since Eisenhower was President Reagan. Reagan said:

> Common sense tells us it will cost a lot less to keep the [transportation] system we have in good repair than let it disintegrate and have to start over.

Since those 8 years of President Reagan, here is where we are today. We have 70,000 bridges in this country that are in a state of disrepair. They are unsafe.

I was in a meeting yesterday where they talked about a bridge in Reno, NV, that was built during the Depression by the Works Progress Administration. I was meeting with a flood control district from Washoe County, NV, and they said they have a bridge—a beautiful bridge—that is so unsafe they will not let schoolbuses drive over it anymore with kids in it. The bus can go without kids in it. There are hundreds and hundreds of bridges in our country in this same state of disrepair.

It is time to rebuild our crumbling infrastructure, and this bill does it in a good way. We talk about this system as if it didn't have any bearing on individuals, but people's lives depend on it—not only on the bridge I just talked about, but the highways I talked about and the sidewalks. We have a person injured or killed as a pedestrian every 7 minutes in the United States. Why? Because they are walking in unsafe conditions. There are lots of roads back here in Washington and lots of them in Nevada where there are no sidewalks. So investing in our infrastructure, as I have said, and I continue to say, will create 2 million jobs.

The Republican caucus is not doing this all in one big band. There are a few Republican Senators over there who are ruining it for everybody. No one can accuse JIM INHOFE of being some radical liberal. He represents the State of Oklahoma. So what do we have here? We have 100 amendments that have been filed already on this bill. Very few of them are related to the bill. We have an amendment that some refer to as an abortion amendment, we have some referring to an amendment dealing with contraceptives, and we have an amendment to cut off aid to Egypt.

Now, tell me, what in the world does aid to Egypt have to do with this highway bill? We have a Foreign Relations Committee. They have TV cameras there. Let them have a hearing in that committee, and the person offering the amendment can make his speech before the Foreign Relations Committee. There is no chance of this amendment passing. None. Zero.

Senator MCCAIN is going to Egypt next week. Why? Because he is a person who is an expert in foreign affairs. He is respected around the world, and he is going to go there to try to work with the Egyptians to resolve some of these problems. He does not even want this amendment to be voted on. He has told me that.

We have an amendment to keep poisons out of the air. It is called Boiler MACT. It is to keep arsenic and mercury and stuff out of the air—excuse me, to keep it in the air. I thank the Senator from California, chairman of that committee.

We have an amendment that takes us back to Keystone—building a pipeline from Canada to the southern part of our country. I would consider that or take a look at it. If they were going to use American products in doing that and the oil would be used in the United States, I might even consider that. I am not sure, but I would consider it. But that is not where we are.

So we have a handful of Republican Senators holding up what we are doing.

Mrs. BOXER. Would the Senator yield for a question?

Mr. REID. I would be glad to yield to my colleague.

Mrs. BOXER. I thank the leader.

First, I just want to thank the Leader so much for his remarks this morning. They are so close to my heart. Frankly, they are close to the hearts of the members of the Environment and Public Works Committee and all the committees that have done their work in a bipartisan way. It is a unique moment when we have four committees complete their work and here we sit.

Before I ask my question, I think the people of this country need to understand what is going on. We are wasting, as my friend said, minute after minute, hour after hour, day after day because Republican Senators, for whatever their reasons, want to bring progress in this country to a halt, to a stop. We have to wonder, is this politically motivated?

As my friend said, 2 million jobs are at stake. I would say to my friend, it is actually up to 2.8 million because there are 1.8 million jobs we protect, and up to 1 million new jobs we would create because of the bipartisan cooperation we have had across the board in the Senate on the highway bill. So I thank my friend.

My question is, Is my friend aware we have more than 1,000 organizations representing millions of Americans who are Republicans and Democrats and Independents, who work out there on the roads or who are the business leaders from the Chamber of Commerce to the AFL–CIO, to the general contractors or the granite people—it goes on and on—the cement people, to the coal ash people, and the fact is a thousand groups are out there and they are watching us, minute after minute?

I hope this is an opportunity to tell them to activate their people and let them know why we are not passing a bill that will save or create 2.8 million jobs and help our businesses across the board and help our States. When we talk about safety, as my friend pointed out, Senator INHOFE tells an eloquent story of a woman killed in Oklahoma walking with her child under a bridge and concrete falls on her. She is gone, and he is so motivated by that.

So I hope my friend will address whether he is aware of the broad support in America for this bill regardless of party label.

Mr. REID. I say through the Chair to my friend from California that yesterday I gave some remarks, and the outline of the speech mentioned there were scores of organizations supporting this bill. I looked at that and said to myself: There are hundreds and hundreds of organizations supporting this bill. So I recognize that, I say to my friend, the chairman of that committee.

To rub salt in the wound of what we are going through, the House of Representatives, led by the Republican caucus—which is overwhelmingly tea party—decided they were going to do some legislation.

That is dandy. Their legislation is so bad that the Congressional Budget Office said it would bankrupt the trust fund. We are trying to replenish the trust fund; they are bankrupting the trust fund. But as I hear on the news this morning, the Republican caucus over in the House is fractured, and now they can't figure out what to do with that bill. They are thinking, maybe we will break it into three different pieces. Even with the power of the tea party, it is so obnoxious and so out of control, that piece of legislation, they appear they are not going to allow a vote to take place on that bill itself because it is so bad.

There is a simple way to avoid this headache; that is, Democrats and Republicans work together. We are here. We want to do this. Let's assume that I decide to file cloture on this bill. What I would do is have a substitute amendment. Let's say I decide to do that. I can't imagine why the Republicans wouldn't join with us in doing that. If there is something in the substitute that I disagree with, the amendment process is still there. To not allow the bill to go forward is repulsive. I can't imagine how a majority of the Republicans who say they want this bill done wouldn't allow us at least to get on the bill itself and move forward with amendments.

I am terribly disappointed where we are. I hope the House will take a page out of our playbook over here and work together, as BOXER and INHOFE have done, to come up with a bill that is a good bill. That bill we are trying to get through was passed unanimously out of committee. So I am cautiously optimistic that the American people will see what is going on and put some pressure on my Republican colleagues to get this bill passed. It is just unfair what is happening on this and other pieces of legislation.

MEASURE PLACED ON CALENDAR—S. 2105

Mr. REID. Madam President, there is a bill due for a second reading, S. 2105.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2105) to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Mr. REID. Madam President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 12 noon, with Senators permitted to speak therein for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes.

SURFACE TRANSPORTATION ACT

Mrs. HUTCHISON. Madam President, I wish to comment on the remarks of the leader just a few minutes ago.

I came to talk about the budget, which I want to do, that was produced by the President. But I will say we had a vote on going to the highway bill last week and the vote was 85 to 11. So Republicans are ready to go to the highway bill.

We have talked about what a great job Senator BOXER and Senator INHOFE did in the committee, working together, to produce a bill. Senator ROCKEFELLER and I have negotiated what is a good settlement on the Commerce part of that bill, and I think we are going to have to have separate votes on the party-line committee vote that was made in Commerce and have a compromise that I think Senator ROCKEFELLER and I will both support going forward.

But I think we just need to get on it. It is just time to go. We don't need to stand here and talk about not being able to move. Let's move. Republicans are ready. Let's go.

THE BUDGET

Mrs. HUTCHISON. Madam President, I do wish to speak about the fiscal year 2013 budget that came out this week from the President, and I guess I would start by saying here we go again. Here we go again.

We have another budget given to us by the President that increases spending and increases taxes to a huge extent. It is stunning, $1.9 trillion in tax increases in the President's proposal over the next decade.

Instead of coming forward and giving responsible solutions to a $1 trillion annual deficit—which is what we have, $1 trillion. My gosh, we didn't even have debt that was $1 trillion. Now we have debt that is almost $16 trillion, and we are talking about more deficits?

Most important, the President didn't put anything in his budget on entitlement reform. So he gave us another budget proposal that spends too much, borrows too much, and taxes too much, which is the same thing that happened last year.

The President's request proposes $11 trillion in gross new debt—$11 trillion in gross new debt—over the next 10 years that would make our total national debt, if we stuck to this budget, $25.9 trillion in 2022. Oh, my gosh, $25.9 trillion, and we are talking about this as a serious proposal? These numbers are untenable. It is a path that is unthinkable for this country.

So $1.4 trillion of the President's proposed tax increases over the next decade would fall on individuals. The budget that the President put forward explicitly states: Immediate broad tax cuts for the middle class are far more effective at creating jobs and growing the economy. I would agree with that. Broad tax cuts for the middle class would be effective at creating jobs and growing the economy.

But the President fails to acknowledge where the tax increases fall. It is on the people who own and work in small businesses, and they are the ones who have the ability to hire if we would let them.

According to the Joint Committee on Taxation, 50 percent of all flowthrough business income will be subject to the proposed tax increases. The National Federation of Independent Business reports that 75 percent of small businesses pay taxes on their business income at the individual tax rate because they are organized as flowthrough businesses, such as partnerships, S corporations, LLCs, and sole proprietorships. So the President is going to the heart of the potential hiring in our economy; that is, small business, and they are going to increase taxes.

I would say the constant drumbeat of this administration for new taxes is putting a blanket on present-day potential hiring. It is putting a blanket on growth because our small businesses see the President continuing to come forward again and again and again and talk about new taxes on the people who could create jobs.

Incredibly, the $1 trillion in new taxes doesn't even pay down the debt. It doesn't lower the deficit. The new taxes the President is proposing just increase spending. Oh, my gosh. Instead of cutting deficits and responsible spending cuts, we are talking about new taxes and new spending.

Where have we heard this before? We have heard it out of Washington, DC, for years. It is the wrong approach, and it is why we are in trouble right now with a $15 trillion debt.

Instead, we need to have sensible spending reductions that meet the caps set under the Budget Control Act and carefully considered investments in strategic, nationally important projects that will have a long-term effect on job increases because of creativity and entrepreneurship.

We must cut spending. It is simple. That is it. We have to cut spending if we are going to get our fiscal house in order.

Most important, we need to address entitlements, which the President did not do in his budget proposal. If there is anything urgent in this country that the President should take the leadership position to do, it is a bipartisan approach to entitlement reform. Our fiscal problems are inextricably linked if we can't fix our broken entitlement system.

Today, mandatory spending—entitlements—are approximately 55 percent of our Federal budget. So we have less than half the budget in the discretionary spending that we pass appropriations for each year. If we don't take that other 50 percent and stop that growth, do you know what is going to happen?

According to the Congressional Budget Office, our mandatory spending by 2022—10 years from now—will be approximately 74 percent of total Federal spending. Over seventy percent of Federal spending will be mandatory. This is out of control.

If we are going to stop this growing deficit and debt cycle, we have to address entitlements. People are living longer than they were living when Social Security was passed in 1935, but we have not addressed that change in our demographics to make sure the program will last. The longer we put it off, the harder it is going to be. If we do not solve this problem, current and future retirees will confront a guaranteed 23 percent cut in benefits in 2036. In today's dollars, that would be a $271 cut in a beneficiary's monthly payment. There is not anyone here who wants that to happen—we know that.

I have introduced legislation with Senator KYL, the ''Defend and Save Social Security Act.'' It gradually increases the retirement age over 11

years—that is how gradual it is. It would go from 66 to 67 to 68 and end at 69—over 11 years. It is 3 months a year that the increase would occur, and it decreases the annual cost-of-living adjustment if it exceeds 1 percent. When inflation goes above 1 percent, the cost-of-living adjustment will kick in. So if you have rampant inflation, such as 2 or 3 percent, there will be a cost-of-living adjustment. My bill with Senator KYL will make the Social Security trust fund solvent through 2085 without raising taxes or cutting core benefits.

Saving our programs, such as Social Security and Medicare, will require bipartisan leadership. We cannot do it with one party. We cannot do it with one party because of the 30-second ad. We must do it together.

I know my time is up, and my colleague from Arkansas is on the Senate floor. I would just say that we could cut $416 billion, nearly $½ trillion over 10 years, if we would start addressing just Social Security right now. Let's do it with bipartisan leadership, starting with the President, the Senate, which is controlled by Democrats, and the House, which is controlled by Republicans. We will have to do it together. Let's do it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. BOOZMAN. Madam President, on Monday morning the country was presented with President Obama's budget proposal for the fiscal year. If you were only to listen to the President and his advisers, you would think this proposal is great for the Nation. The Acting Budget Director says the President's budget ''makes the right investments.'' The head of the President's National Economic Council used several sports metaphors to make the case that ''the President has very much stepped up to the plate,'' and the President himself said his budget makes ''some tough choices in order to put the country back on a more sustainable fiscal path.'' The reason they are so excited about this proposal is that they believe, in an election year, they have offered every ally something to woo their support. This budget proposal truly does try to be everything for everyone. The problem is that no one wins with it.

When you scratch the surface of this proposal, the shine quickly wears off. The deficit reduction claims the administration throws out to defend this proposal simply do not hold water. You cannot claim $1 trillion in cuts that Congress pushed through during the debt ceiling debate as new cuts, nor can you say with all honesty that $850 billion in war savings are real cuts. This money was never going to be spent in the first place.

When you get down to it, President Obama was never serious about his pledge to cut the deficit in half by the end of his first term. Like every budget this administration has proposed, this one was written with red ink. The deficit spending proposed in the President's fiscal year 2013 budget topped $1 trillion again. This is simply an unsustainable rate of spending.

On Monday, the President's team was doing a full-scale PR push for that budget. At one point during the rollout, a reporter asked the President's top economic aides what ever happened to that pledge the President had made to the American people. Gone from their answers was the tough talk about making difficult decisions and facing challenges we have long neglected. Instead, his advisers were left to pull out the old standby excuse that the President's team simply did not realize how bad the economy actually was when they first took over.

Clearly, they still do not realize it now. Not only does the President's budget ignore the very real disarray our fiscal house is in, it makes it worse. Since President Obama took office, our national debt has shot up 42 percent. Under President Obama's watch, the national debt has jumped to a jaw-dropping $15.1 trillion. This is the fourth year in a row that the budget would run a deficit above $1.29 trillion. When it comes to fiscal responsibility, this is not a record of which to be proud.

America deserves better than a collection of tax hikes, phony savings, and additional debt. The President's budget proposal is bad for seniors, as it takes no steps to protect and strengthen Medicare and Social Security. It will hurt the chances of an economic recovery through tax hikes and will add $11 trillion more to our already staggering national debt in a 10-year period. We cannot continue to keep going down this road. America's fiscal health is at stake. We have to stop spending more than we take in. If not, we risk going in the direction of Greece, Portugal, Italy, and other European countries that have spent their way to the brink of default.

As we head into the final year of President Obama's first term, we have already witnessed the most rapid increase in debt under any U.S. President. With our national debt already the size of our entire economy, the President has proposed a budget that calls for hundreds of billions of dollars in new spending. If we follow through with this budget, deficit spending would exceed $600 billion every year but one over the next decade. Our national debt would grow to $18.7 trillion.

President Obama would like you to believe that if we simply raise taxes we can solve all of our fiscal problems. A recent CBO report shows that spending is the primary cause of our fiscal crisis and supports spending cuts rather than tax increases to reverse the trend. But the President is holding steadfast to his desire to raise taxes as an answer. The President's failed policy of borrowing, spending, and taxing is just what the CBO is warning us to avoid. It has not worked in the past, and it will not work in the future.

Washington does not have a revenue problem, Washington has a spending problem. The fact that President Obama still believes we can tax our way out of the problem reveals a huge disconnect with the American people. When it comes to our country's budget, Americans have a right to expect accountability, honesty, and responsibility. This proposal has none of those.

If President Obama refuses to acknowledge and address the very real economic crisis facing our country, let's show America that we will. We can do so by rejecting the White House's proposal and passing a responsible budget that puts our Nation back on a fiscally responsible path.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, now what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business.

SURFACE TRANSPORTATION ACT

Ms. MIKULSKI. Madam President, I wish to claim 10 minutes to speak on behalf of a bill which I hope will return to the Senate today, which is the surface transportation reauthorization bill. I hope we take it up. I hope we actually vote on it, and I hope there are not a lot of extraneous amendments that are not relevant to getting America moving again, creating jobs that result in public safety, a better environment, and people actually working. What I like about the surface transportation reauthorization bill is that, in effect, this could be the only vehicle we have that is a version of the infrastructure bank, a topic on which I know the Presiding Officer has worked assiduously.

We need an infrastructure bank. We need to have jobs in construction to build highways, byways, subways, and we can do it, but it looks as though it will be difficult to do. In the meantime, we have a regular order bill, the surface transportation reauthorization bill. This is the bill that Congress reauthorizes every couple of years to do construction on highways, byways, and beltways, and at the same time in the very important area of mass transit, something the gentlelady from New York knows is important since she has one of the busiest subways in America. We have a busy subway called the Metro, and I am going to talk about that in a minute.

Right now we must pass this long-term transportation bill to put people back to work, repair our aging roads and bridges and tunnels, keep the public safe, and lower our carbon footprint. This is a bipartisan bill, and it is

actually paid for and meets a sense of a frugal government but smart spending. It is time to show the American people that we can govern, that we can actually pass legislation in a regular order, conducting ourselves with civility as we debate our amendments.

We have to keep America rolling. This is a jobs bill. One of the best ways to put people to work is through infrastructure projects. It builds America and builds our economy. This bill will contribute to saving over 1.8 million jobs and actually creates new jobs in construction, in the supply chain, and in design and engineering, and all the vendors it supports.

In my own home State we estimate that 10,000 jobs will be created if we pass this bill. I cannot speak about this in a more firm and insistent way. When I met with the building trades guys, it was a bleak conversation with the unemployment rate in construction still sky-high. This bill will jump-start the economy. All the people who analyze this type of data say that for every dollar we spend on infrastructure construction, we get $2 in economic output back into our economy through the multiplier effect.

Let's do an inventory of why this is a compelling need. We know we have a high unemployment rate and that we are running big debts and we are running deficits. One of the ways to reduce the debt and the deficit is to have people working where they are paying revenue in to the government. We also have an infrastructure deficit. Do you know that right now 700,000 bridges are structurally deficient? That is not a fact, that is a danger zone. Fifty percent of our roads are in need of serious repair. More than 4 million people travel over these bridges every day. This would address that kind of problem.

Then there is this whole issue of, again, roads, highways, byways, and beltways. There is also the issue of mass transit. One of the parts of the bill I am most proud of is creating Federal safety standards for the metro systems nationwide.

On June 22, 2009, there was a terrible accident in the national capital region. Nine people were killed and 50 more injured in a terrible metro transit accident when a red line train struck another train. The woman who was the conductor on that train tried valiantly to save her passengers. She died as a result. Well, we went to the funerals, we listened to the people, and we always say: We will never forget, but we do. Well, I didn't forget and the Maryland delegation didn't forget. BEN CARDIN didn't forget, CHRIS VAN HOLLEN didn't forget, and DONNA EDWARDS didn't forget. We worked very hard in creating legislation. The first thing we did was listen to the National Transportation Safety Board that gave us recommendations and said there was not only a failure of Metro being fit for duty, but all of the transit systems in America face this kind of risk where there is a failure of technology, the failure of cars to be crash resistant, the failure to have exit doors, and the failure to have a black box.

When you look at the Congress, we are the failure. Give us an F because we have safety standards for how you open a bottle cap but not how you open a subway car in a disaster. So it wasn't Senator BARB making up safety rules on her own; we went and listened to the National Transit Safety Board. I put in legislation to give the Federal Transit Administration the authority to establish and enforce national safety standards for Metro. We had aggressive oversight hearings. Metro leadership initially was dragging its axles, but I wouldn't take no for an answer. We shook up the management, we shook up the board, and now I want to shake up the Congress.

I want to thank Senator BOB MENENDEZ. He had a parallel bill. I want to thank TIM JOHNSON, the chair of the committee. They have taken my ideas and have actually done a version of their own, and working together we have come up with a great solution that has bipartisan support. This checklist for change that I insisted on would replace the oldest cars in the fleet. It would develop real-time automatic controls so that technology would have redundancy in it. It would develop a training and certificate program so that the personnel not only know how to operate their cars but what to do in the danger zones. Runaway cars make a great movie. Denzel Washington did that one, but I don't want to see another movie where there is another transit system that went through the horrific accident here in the national capital region.

In this checklist for change legislation, working again with Senator MENENDEZ, my colleague Senator CARDIN, whom I cannot give enough credit to, our new bill gives the Transportation Secretary, Mr. LaHood, authority to establish and enforce safety standards, and allows Federal funding for these safety improvements. I am pleased that this was inculcated.

The story goes one step farther, and this is an example. Last year, through the appropriations, I was able to get funding, working with Senator MURRAY, to be able to replace the Metro cars, the ones that are old, dated, and cannot withstand all the problems I just enumerated.

I am going to tell you the rest of the story as if Paul Harvey were on the floor. A couple of weeks ago during one of our work weeks when we were visiting our constituents, I went to a place called Knorr Brakes in Carroll County, which was once very rural. Knorr Brakes actually makes the brakes for these Metro cars and makes the brakes for Amtrak and makes the brakes for many transit systems in the United States of America. Because of the improvements at Metro, they have been able to hire more people.

I wish you could have walked that factory floor with me. It is not your grandfather's factory floor, which was often dark and dangerous. It is clean, uses the best of engineering, a few robots, engineers, with skilled blue-collar workers who are machinists who are working on this very specialized equipment. These brakes have to work, and they are the best in the world. Workers in Maryland are the best in the world. Yes, they are part of a German holding company, so we are ready to be global, and at the same time they are fixing not only Washington's Metro but they are working on transit systems.

My whole point is smart funding in the area of infrastructure and in transportation safety creates American jobs. Every time we modernize our transit fleet, we are building railroad cars in the United States of America. Many of those brakes that will go on that car will be made in Maryland by Maryland workers, competing with other American companies. And you know what. That is what it is all about. That is smart funding that creates safety and creates jobs.

I want to thank the Banking Committee for including this, and I also want to thank all three committees: Banking, Environment, and Public Works, under the leadership of Senator BOXER and Senator INHOFE, Senator BAUCUS, Senator GRASSLEY, Senator TIM JOHNSON, and my colleague from Alabama, Senator SHELBY.

This could be a great day. This could be a great day or a great week. But, yes, while we are working on the payroll tax and its temporary holiday, the real thing we could get done this week is to pass this legislation. America will be safer, our economy will grow, and it will be a win-win situation.

Madam President, I want to thank you for your kind attention. I want to thank all my colleagues who worked on a bipartisan basis. We actually listened to each other. I had a set of ideas. Others had as well. Some had flashing lights about costs, we went back and forth, and that is the subject of negotiation, and we were able to do it. I think we have come up with a great bill for surface transportation. We have come up with a great bill for transit safety, and I am going to be happy to vote for it. Let's get Congress rolling so we can get our economy rolling.

I yield the floor. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A SECOND OPINION

Mr. BARRASSO. Madam President, I come to the floor because of a new report that has come out by the chief economist of Gallup, the polling organization, dated today, February 15, 2012. The headline is: ''Health Costs,

Gov't Regulations Curb Small Business Hiring.''

As a Member of the Senate as well as a physician who has taken care of families across the State of Wyoming for about a quarter of a century, I am concerned about jobs in this country, the economy in this country, and also the health care needs of the American people, which is why week after week I come to the Senate floor with a doctor's second opinion about a health care law that was supposed to give people what they were looking for, which was the care they need, from the doctor they want, at a cost they can afford.

Regrettably, what this President and this Senate and this House—at the time controlled by the Democrats—gave them is something very different. So the result of this report today—first line: U.S. small business owners who aren't hiring, that is 85 percent of the 600 who were surveyed, those small business owners who are not hiring are being asked: Why not?

Nearly half the small business owners point to the potential health care costs and government regulations as two big reasons. Those worried about the potential cost of health care: 48 percent. Those worried about new government regulations: 46 percent.

But yet when the President addressed the Nation about health care, what he promised was that if people liked the care they had, they could keep it, and they would see their premiums drop by $2,500 a year a family.

When I have townhall meetings, I ask how many people believe the health care costs are going to go up as a result of the health care law. Every hand goes up in the room. So the President has misled the American people both in terms of the cost of the health care law as well as he misled the people in regard to regulations. He stood in front of us in the House of Representatives as he gave his State of the Union Address and talked about removing expensive regulations. But that is not what the small business owners, those who create the jobs in this country, that is not what they are finding.

Then the President came out with his budget on Monday. It is his fiscal year 2013 budget. As I have said before, it is ''debt on arrival.'' The Obama budget spends $3.8 trillion. It runs a deficit of nearly $1 trillion. It raises taxes by nearly $1.9 trillion. It is the largest tax increase in the history of our country, and it is the fourth year in a row to run a deficit of over $1 trillion.

Yet the President goes on. To me, this is another clear example of President Obama's lack of leadership and his bad habit of saying one thing and doing the exact opposite. Instead of saving money, which he promises, he just spends more. Instead of leveling with the American people about our fiscal future, he misleads them.

So I would like to focus on one specific part of this budget. It is the part referring to and regarding the President's health care law. As we all remember, the President promised the American people repeatedly, not just once but repeatedly, that his health care reform would not add a dime to the deficit. Two years later, the American people know that is just not true. In fact, the President's new budget asks for almost $1 billion—$1 billion, that is 1,000 million—$1 billion to fund his health care exchange.

As The Hill newspaper recently reported, ''The health reform law did not set aside any money specifically for the creation of the Federal exchanges.'' Let me repeat that. The health care law did not set aside any money specifically for the creation of the Federal exchanges.

Two years ago, did the President and my friends on the other side of the aisle seriously believe Washington would be able to implement an unprecedented health care exchange for free, that it would just be free? Of course not. But the fact is, they knowingly—knowingly—ignored the costs of the President's major new entitlement program. Why?

To try to score a political victory. What do we know about that victory? We know it is going to be bad for patients, bad for the providers, the nurses and doctors who take care of those patients, and bad for the American taxpayers. The health care law, when it was crammed down the throats of the American people and forced through Congress, we knew it was unpopular then, and we know it is even more unpopular today.

The whole time the Democrats were drafting the bill behind closed doors, right outside this Senate Chamber, they knew it would cost American taxpayers billions and billions of dollars. But they did not want to admit it. They did not admit it. They refused to admit it. So they shaded the numbers. They punted this down the road. Here we are 2 years later and now they are finally trying to pay for it—listed in the President's budget.

To make matters worse, the 2013 Obama budget wants to spend $290 million for ''consumer beneficiary education and outreach'' within the exchanges. What does this mean? It basically means they want to educate Americans about the exchanges in the health care law to the tune of 290 million of taxpayer dollars.

I think it is important to keep the American people informed. But my question is: Why are President Obama and the Democrats in Congress focused on educating people about the health care law now? Why? Why didn't they take the time 2 years ago to educate the American people about the exchanges and the costs of doing this?

We know the reason. The reason is because they knew the American people would never support the new law, would never give up their freedoms. Instead, the White House and Democrats in Congress covered up the costs, drafted the bill behind closed doors, and jammed it through Congress.

Now the financial bills are coming due, but the checks are not in the mail. The United States is running out of money and running out of money fast. Instead of proposing a serious budget that would get our country back on the right track, the President has put forward not a serious budget but a campaign document. No matter what he says, he is much more interested in winning votes now than in winning what he calls the future.

Earlier this week, the President spoke to students at a community college. He said his budget would make their futures brighter. I watched on television as he said that. His words could not have been further from the truth. The fact is, the President and his budget will make these students have to work even harder to pay off the Nation's increasingly growing debt. These students and all future generations of Americans will pay for the choices they never made and programs they do not want.

The new $800 million pricetag on the exchanges is bad, and that is just the beginning. In fact, the cost of the President's health care law is going to continue to skyrocket each and every year. When we are already $15 trillion in debt, we cannot allow this health care law to move forward. When we look at trillion-dollar deficits for each of the 4 years of the Obama Presidency, we say this cannot continue. Yet when we look at this budget, it adds $11 trillion to the national debt over the next 10 years.

We need to repeal this health care law. We need to replace it with something that will not make it harder for future generations to get out of debt, and we need to pass a law that will allow Americans to get what they wanted in the first place; the care they need, from a doctor they want, at a price they can afford.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SECURE RURAL SCHOOLS

Mr. MERKLEY. Madam President, I rise to draw my colleagues' attention to an issue of great importance to our rural communities. If Congress does not act, many of our rural counties will face an increasingly dire state of affairs in the months to come. Across the United States, timber counties are facing local budgets suddenly and deeply in the red. This fiscal crisis could mean reduced schooldays, fewer sheriffs, more offenders on the street, and cuts to other basic county services.

Congress has the power to avert this impending disaster, and Congress must

utilize that power. So we must act without delay to extend the Secure Rural Schools and Communities Self-Determination Act. Secure Rural Schools is not an entitlement program; it is a commitment this Nation, our Federal Government, made to rural forest counties out of fairness and common sense when it determined it would put environmental overlays over large blocks of forest land that we dedicated to timber production with revenue shared with the local county. This contract between the Federal Government and our rural counties has been at the foundation of our National Forest System, and we in this Chamber need to honor it. Many folks come here and talk about how the Federal Government needs to uphold its share of the bargain. Well, this is an explicit contract with our rural counties, and we need to uphold that bargain.

Since 1908—more than 100 years—the Federal Government has appropriately shared timber revenues with counties for the infrastructure they develop because this timber land is in Federal hands and produces no property tax revenue to support that infrastructure.

Let me give some background on what the scale of this issue is for States such as Oregon. Oregon has 2.2 million acres of O&C lands. These lands were granted to the Oregon and California Railroad in 1866 and later reverted to the Federal Government when the railroad failed to live up to its terms of the grant. They also included a class of lands that originated from a similar situation—the Coos Bay Wagon Road lands. These lands make up a large percentage of the acreage in southern and western Oregon. Then there are Forest Service lands—timbered lands owned by the Federal Forest Service—that make up 14 million additional acres across the State of Oregon. When you add it all together, more than half of Oregon's lands are federally owned. That means they do not produce a penny of property taxes to support infrastructure in our rural counties. The O&C lands and the Wagon Road lands were dedicated to timber production, with the counties receiving 50 percent of all revenues. Counties with national forest lands received 25 percent of the timber revenues. This created jobs and a source of money to provide counties with that needed infrastructure.

In the early 1990s timber production began a long decline—a precipitous decline. Trends such as automation and trade hit the sector hard, as they had so many more sectors. On top of this, there were the environmental overlays that dramatically reduced timber harvesting.

To compensate for the newly imposed Federal structure that changed the entire pattern of timber production in our rural counties, our National Government developed the Secure Rural Schools Program to provide payments to counties based on historic timber harvest levels but no longer tied directly to the annual timber harvest.

This type of arrangement is not unique to Oregon, nor are the problems arising from the lapse of the Secure Rural Schools Program. There are a great many States, particularly in the West, where much of the land is federally owned and counties rely on this program and similar programs to support key infrastructure.

It is no wonder that when the Secure Rural Schools payments lapsed in 2006, drastic measures had to be taken to adjust to the loss. Let me give some sense of what this is like in Oregon.

In Josephine County—southern Oregon—two-thirds of the county's general fund came from county payments. So loss of county payments means cutting public safety programs. Overnight, in 2006, patrols were cut down to just six individuals to cover an area the size of the State of Rhode Island.

In Lake County, where Federal lands make up 61 percent of the county, they cut their Federal road department from 42 individuals to 14—14 folks for a road department covering a land area equal to the combined size of Connecticut and Delaware.

In Jackson County, where one-third of the general fund comes from Federal payments, the county eliminated 117 jobs in parks, human services, roads, and public safety, and they closed all of their libraries.

Let me be clear. When the Federal Government fails to uphold the contract it has struck with our rural timber counties, the suffering is intense. It is an embarrassment that we would permit the Federal Government not to fulfill its commitment under this framework.

This impact is so substantial that the Oregon Legislature, when I was serving as speaker, redirected $50 million in transportation funds to the rural counties. In the year of 2007, I organized a bipartisan, bicameral tour of our most affected counties. We went out to talk to the county officials, and when we came back I advocated for and supported this $50 million emergency transfer to compensate for the fact that the Federal Government was breaking its contract with the timber counties in America. Let's not let that happen again.

Later, Congress restored this contract. But here we are now, 5 years later, facing the worst-case scenarios all over again. As Yogi Berra said, it is deja vu all over again. Because we failed to pass an extension before we left for the holidays, the last payment occurred a few weeks ago and timber counties don't know what is going to happen now. They would like to think folks in this Chamber will honor and support sustaining this Federal contract with our rural timber counties, but this Chamber has to act to make that happen.

The Eugene Register-Guard recently published an editorial about the situation in Lane County, stating:

> The emerging picture looks like a multi-car pileup on Interstate 5.

Lane County is facing a $14 million shortfall. More than half of this—$7.2 million—will have to be absorbed by the sheriff's office. What does that mean for Lane County? It means the end of 24-hour patrol, with coverage limited to just 16 hours a day. It means so few officers that they would be unable to respond except ''to the most serious of crimes.'' It means parole and probation supervision will be eliminated for hundreds of offenders and 130 jail beds would have to be closed. In addition, the district attorney's office faces a $1.9 million reduction in county funding, which would mean the loss of between 12 to 20 employees in the criminal division and potential shutdown of the county's medical examiner's office. And this is one of the counties that is in better shape. Others could go bankrupt as early as June of this year. As the Register-Guard newspaper says, it is ''a dire predicament, and in desperate need of help from Congress.''

Rural counties in Oregon and elsewhere deserve to have the Federal Government honor its contract and to have the peace of mind that funds guaranteed to pay for their infrastructure are there—for the roads, for schools, for public safety. In this contract between the Federal Government and rural America, the Federal Government must uphold its end of the bargain. Rural counties have been on a roller coaster for far too long. They have been flying off the tracks. Pick any metaphor you want—a pileup on I–5, a roller coaster or a train running off the tracks—this is the situation in our rural timber counties. And those Members who don't have rural counties have other situations where there are vital Federal commitments. This one must be honored by this Chamber.

The first step is to extend the Secure Rural Schools Program as soon as possible. President Obama has supported and proposed and included in his budget a 5-year reauthorization of Secure Rural Schools and has made it mandatory spending. This short-term funding is a critical bridge to maintain schools and law enforcement in timber counties while we work for a viable long-term, sustainable management solution for Federal forests.

I want to be clear. Timber counties would rather have forest practices that allow sustained production of timber, as these lands were dedicated to. That creates jobs, it supports the whole supply chain, and it provides logs to the independent mills that don't own their own forest land. That is the vitality of rural communities.

My father worked at a sawmill when I was born—Harbor Plywood in Riddle, OR, and I lived in the adjoining town of Myrtle Creek.

Those of us with a timber background understand the essential nature of this Federal contract. We must get it done in this Chamber. I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes, and I would ask the Chair to please let me know when 8 minutes has expired.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PAYROLL TAX EXTENSION

Mr. ALEXANDER. Madam President, there are reports in some of the newspapers this morning that there is an effort to try to slip into the negotiation about extending the payroll tax break for the next year a big loophole for the rich and for the investment bankers and for most of the people President Obama keeps talking about as people whose taxes he would like to raise. What I mean by this is I have heard there may be an effort to put into the payroll tax agreement a 4-year extension of the so-called production tax credit, which is a big tax break for wind developers. I cannot think of anything that would derail more rapidly the consensus that is developing about extending the payroll tax deduction than to do such a thing. We are supposed to be talking about reducing taxes for working people. This would maintain a big loophole for investment bankers, for the very wealthy, and for big corporations.

We hear a lot of talk about Federal subsidies for Big Oil. I would like to take a moment to talk about Federal subsidies for Big Wind—$27 billion over 10 years. That is the amount of Federal taxpayer dollars between 2007 and 2016, according to the Joint Tax Committee, that taxpayers will have given to wind developers across our country. This subsidies comes in the form of a production tax credit, renewable energy bonds, investment tax credits, federal grants, and accelerated appreciation. These are huge subsidies. The production tax credit itself has been there for 20 years. It was a temporary tax break put in the law in 1992. And what do we get in return for these billions of dollars of subsidies? We get a puny amount of unreliable electricity that arrives disproportionately at night when we don't need it.

Madam President, residents in community after community across America are finding out that these are not your grandma's windmills. These gigantic turbines, which look so pleasant on the television ads—paid for by the people who are getting all the tax breaks—look like an elephant when they are in your backyard. In fact, they are much bigger than an elephant. They are three times as tall as the sky boxes at Neyland Stadium, the University of Tennessee football stadium in Knoxville. They are taller than the Statue of Liberty in the home State of the Presiding Officer. The blades are as wide as a football field is long, and you can see the blinking lights that are on top of these windmills for 20 miles.

In town after town, American residents are complaining about the noise and disturbance that come from these giant wind turbines in their backyards. There is a new movie that was reviewed in the New York Times in the last few days called ''Windfall'' about residents in upstate New York who are upset and have left their homes because of the arrival of these big wind turbines. The great American West, which conservationists for a century have sought to protect, has become littered with these giant towers. Boone Pickens, an advocate of wind power, says he doesn't want them on his own ranch because they are ugly. Senator KERRY, Senator Kennedy, Senator WARNER, and Senator SCOTT BROWN have all complained about the new Manhattan Island sized wind development which will forever change the landscape off the coast of Nantucket Island.

On top of all that, these giant turbines have become a Cuisinart in the sky for birds. Federal law protects the American eagle and migratory birds. In 2009, Exxon had to pay $600,000 in fines when oil developments harmed these protected birds. But the Federal Government so far has refused to apply the same Federal law to Big Wind that applies to Big Oil, even though chopping up an eagle in a wind turbine couldn't be any better than its landing and dying on an oil slick. And wind turbines kill over 400,000 birds every year.

We have had some experience with the reliability of this kind of wind power in the Tennessee Valley Authority region. A few years ago TVA built 30 big wind turbines on top of Buffalo Mountain. In the Eastern United States, onshore wind power only works when the wind turbines are placed on the ridge lines of Americas most scenic mountains. So you will see them along the areas near the Appalachian Trail through the mountains of scenic views we prize in our State. But there they are, 30 big wind turbines to see whether they would work. Here is what happened:

The wind blows 19 percent of the time. According to TVA's own estimates, it is reliable 12 percent of the time. So TVA signed a contract to spend $60 million to produce 6 megawatts of wind—actual production of wind—over that 10-year period of time. It was a commercial failure.

There are obviously better alternatives to this. First, there is nuclear power. We wouldn't think of going to war in sailboats if nuclear-powered submarines and aircraft carriers were available. The energy equivalent of going to war in sailboats is trying to produce enough clean energy for the United States of America with windmills.

The United States uses 25 percent of all the electricity in the world. It needs to be clean, reliable electricity that we can afford. Twenty percent of the electricity that we use today is nuclear power. Nearly 70 percent of the clean electricity, the pollution-free electricity that we use today is nuclear power. It comes from 104 reactors located at 65 sites. Each reactor consumes about 1 square mile of land.

To produce the same amount of electricity by windmills would mean we would have to have 186,000 of these wind turbines; it would cover an area the size of West Virginia; we would need 19,000 miles of transmission lines through backyards and scenic areas; so 100 reactors on 100 square miles or 186,000 wind turbines on 25,000 square miles.

Think about it another way. Four reactors on 4 square miles is equal to a row of 50-story tall wind turbines along the entire 2,178-mile Appalachian Trail. Of course, if we had the turbines, we would still need the nuclear plants or the gas plants or the coal plants because we would like our computers to work and our lights to be on when the wind doesn't blow, and we can't store the electricity.

Then, of course, there is natural gas, which has no sulfur pollution, very little nitrogen pollution, half as much carbon as coal. Gas is very cheap today. A Chicago-based utility analyst said: Wind on its own without incentives is far from economic unless gas is north of $6.50 per unit. The Wall Street Journal says that wind power is facing a make-or-break moment in Congress, while we debate to extend these subsidies. So that is why the wind power companies are on pins and needles waiting to see what Congress decides to do about its subsidy.

Taxpayers should be the ones on pins and needles. This $27 billion over 10 years is a waste of money. It could be used for energy research. It could be used to reduce the debt. Let's start with the $12 billion over that 10 years that went for the production tax credit. That tax credit was supposed to be temporary in 1992.

Today, according to Secretary Chu, wind is a mature technology. Why does it need a credit? The credit is worth about 3 cents per kilowatt hour, if we take into account the corporate tax rate of 35 percent. That has caused some energy officials to say they have never found an easier way to make money. Well, of course not.

So we do not need to extend the production tax credit for wind at a time when we are borrowing 40 cents out of every dollar, at a time when natural gas is cheap and nuclear power is clean and more reliable and less expensive.

I would like to see us put some of that money on energy research. We only spend $5 billion or $6 billion a year on energy research: clean energy research, carbon recapture, making solar cheaper, making electric batteries that go further. I am ready to reduce the subsidies for Big Oil as long as we reduce the subsidies for Big Wind at the same time.

So let's not even think about putting this tax break for the rich in the middle of an extension of a tax deduction for working Americans this week. Let's focus on reducing the debt, increasing

expenditure for research, and getting rid of the subsidies.

Twenty years is long enough for a wind production tax credit for what our distinguished Nobel Prize-winning Secretary of Energy says is a mature technology.

I ask unanimous consent to have printed in the RECORD a film review from the New York Times on February 3 entitled, ''Turbines in the Backyard: The Sound and the Strobes.'' This is about the movie ''Windfall,'' about upstate New York communities that have experienced having these huge things in their backyards. An article by Robert Bryce, ''Why The Wind Is Full Of Hot Air and Costing You Big Bucks,'' an article from the Los Angeles Times on wind farms, and another article from February 2 in the Globe, ''Town turns off wind, opts for solar energy.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 2, 2012]

TURBINES IN THE BACKYARD: THE SOUND AND THE STROBES

(By Andy Webster)

We can all agree that energy independence is a worthy objective, right? Alternative energy sources like solar power can help free the United States from fossil fuels and the grip of unstable Persian Gulf states. And wind power—wait, not so fast, says ''Windfall,'' Laura Israel's urgent, informative and artfully assembled documentary. An account of rural Meredith, in upstate New York, when wind turbines came to town, the film depicts the perils of a booming industry and the bitter rancor it sowed among a citizenry.

In 2004 residents of this once-flourishing dairy center were approached by companies offering to pay a nominal fee to erect turbines on their property while insisting on confidentiality agreements (to keep competitors ignorant of costs). Economically beset, some people, like Ron and Sue Bailey, jumped at first. But others, like Keitha Capouya, now the town supervisor, dug into the research and sounded an alarm.

Turbines are huge: some are 40 stories tall, with 130-foot blades weighing seven tons and spinning at 150 miles an hour. They can fall over or send parts flying; struck by lightning, say, they can catch fire. Their 24/7 rotation emits nerve-racking low frequencies (like a pulsing disco) amplified by rain and moisture, and can generate a disorienting strobe effect in sunlight. Giant flickering shadows can tarnish a sunset's glow on a landscape.

People in Lowville, N.Y., farther north, express despair on camera at having caved to the wind companies' entreaties; Bovina, N.Y., banned turbines entirely. Meredith is riven by the issue, which pits the Planning Board against the Town Board and neighbor against neighbor. Former city dwellers escaping urban anxieties are surprised to see themselves as activists. Concerns like setback (the distance of turbines from a property line) are debated.

Government officials are seen only in glimpses of television talk shows. Conspicuously absent are representatives of corporations like Airtricity, Enxco or Horizon Wind Energy (though the financier and wind advocate T. Boone Pickens comes off as a wolf in good-old-boy clothing). And despite Ms. Israel's inspired use of a local demolition derby as a metaphor for Meredith's struggles, her accelerated pacing almost overheats.

But the film's implications are clear: The quest for energy independence comes with caveats. Developers' motives must be weighed, as should the risks Americans are willing to take in their own backyard. Despite BP's three-month blanketing of Gulf of Mexico beaches in crude oil; the nuclear disaster in Fukushima, Japan; and the possible impact of hydraulic fracturing (fracking) on the water table, energy companies remain eager to plunder nature's bounty in pursuit of profit.

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[From FoxNews.com, Dec. 20, 2011]

WHY THE WIND INDUSTRY IS FULL HOT AIR AND COSTING YOU BIG BUCKS

(By Robert Bryce)

The American Wind Energy Association has begun a major lobbying effort in Congress to extend some soon-to-expire renewable-energy tax credits. And to bolster that effort, the lobby group's CEO, Denise Bode, is calling the wind industry ''a tremendous American success story.''

But the wind lobby's success has largely been the result of its ability to garner subsidies. And those subsidies are coming with a big price tag for American taxpayers. Since 2009, AWEA's largest and most influential member companies have garnered billions of dollars in direct cash payments and loan guarantees from the US government. And while the lobby group claims to be promoting ''clean'' energy, AWEA's biggest member companies are also among the world's biggest users and/or producers of fossil fuels.

A review of the $9.8 billion in cash grants provided under section 1603 of the American Recovery and Reinvestment Act of 2009 (also known as the federal stimulus bill) for renewable energy projects shows that the wind energy sector has corralled over $7.6 billion of that money. And the biggest winners in the 1603 sweepstakes: the companies represented on AWEA's board of directors.

An analysis of the 4,256 projects that have won grants from the Treasury Department under section 1603 over the past two years shows that $3.37 billion in grants went to just nine companies—all of them are members of AWEA's board. To put that $3.37 billion in perspective, consider that in 2010, according to the Energy Information Administration, the total of all ''energy specific subsidies and support'' provided to the oil and gas sector totaled $2.84 billion. And that $2.84 billion in oil and gas subsidies is being divided among thousands of entities. The Independent Petroleum Association of America estimates the US now has over 14,000 oil and gas companies.

The renewable energy lobby likes to portray itself as an upstart industry, one that is grappling with big business and the entrenched interests of the hydrocarbon sector. But billions of dollars in 1603 grants—all of it exempt from federal corporate income taxes—is being used to fatten the profits of some of the world's biggest companies. Indeed, the combined market capitalization of the 11 biggest corporations on AWEA's board—a group that includes General Electric and Siemens—is about $450 billion.

Nevertheless, the clock is ticking on renewable-energy subsidies. The 1603 grants end on December 31 and the renewable-energy production tax credit expires on January 1, 2013. On Monday, AWEA issued a report which predicted that some 37,000 wind-related jobs in the US could be lost by 2013 if the production tax credit is not extended.

But the subsidies are running out at the very same time that a cash-strapped Congress is turning a hard eye on the renewable sector. The collapse of federally backed companies like solar-panel-maker Solyndra and biofuel producer Range Fuels, are providing critics of renewable subsidies with plenty of ammunition. And if critics need more bullets, they need only look at AWEA's board to see how big business is grabbing every available dollar from US taxpayers all in the name of ''clean'' energy. Indeed, AWEA represents a host of fossil-fuel companies who are eagerly taking advantage of the renewable-energy subsidies.

Consider NRG Energy, which has a seat on AWEA's board. Last month, the New York Times reported that New Jersey-based NRG and its partners have secured $5.2 billion in federal loan guarantees to build solar-energy projects. NRG's market capitalization: $4.3 billion.

But NRG is not a renewable energy company. The company currently has about 26,000 megawatts (MW) of generation capacity. Of that, 450 MW is wind capacity, another 65 MW is solar, and 1,175 MW comes from nuclear. So why is NRG expanding into renewables? The answer is simple: profits. Last month, David Crane, the CEO of NRG, told the Times that ''I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects.''

Or look at E.On, the giant German electricity and natural gas company, which also has a seat on AWEA's board of directors. In 2010, the company emitted 116 million metric tons of carbon dioxide an amount approximately equal to that of the Czech Republic, a country of 10.5 million people. And last year, the company—which has about 2,000 MW of wind-generation capacity in the US—produced about 14 times as much electricity by burning hydrocarbons as it did from wind.

Despite its role as a major fossil-fuel utility, E.On has been awarded $542.5 million in section 1603 cash so that it can build wind projects. And the company is getting that money even though it is the world's largest investor-owned utility with a market capitalization of $45 billion.

Another foreign company with a seat on AWEA's board: Spanish utility Iberdrola, the second-largest domestic wind operator. But in 2010, Iberdrola produced about 3 times as much electricity from hydrocarbons as it did from wind. Nevertheless, the company has collected $1 billion in section 1603 money. To put that $1 billion in context, consider that in 2010, Iberdrola's net profit was about 2.8 billion Euros, or around $3.9 billion. Thus, US taxpayers have recently provided cash grants to Iberdrola that amount to about one-fourth of the company's 2010 profits. And again, none of that grant money is subject to US corporate income taxes. Iberdrola currently sports a market cap of $39 billion.

Another big winner on AWEA's board of directors: NextEra Energy (formerly Florida Power & Light) which has garnered some $610.6 million in 1603 grants for various wind projects. NextEra's market capitalization is $23 billion. The subsidies being garnered by NextEra are helping the company drastically cut its taxes. A look at the company's 2010 annual report shows that it cut its federal tax bill by more than $200 million last year thanks to various federal tax credits. And the company's latest annual report shows that it has another $1.8 billion of ''tax credit carryforwards'' that will help it slash its taxes over the coming years.

The biggest fossil-fuel-focused company on AWEA's board is General Electric, which had revenues last year of $150 billion. Of that sum, about 25 percent came from what the company calls ''energy infrastructure.'' While some of that revenue comes from GE's wind business, the majority comes from building generators, jet engines, and other machinery that burn hydrocarbons. The company is also rapidly growing GE Oil &

Gas, which had 2010 revenues of $7.2 billion. GE Oil & Gas has more than 20,000 employees and provides a myriad of products and services to the oil and gas industry.

GE has a starring role in one of the most egregious examples of renewable-energy corporate welfare: the Shepherds Flat wind project in Oregon. The majority of the funding for the $1.9 billion, 845-megawatt project is coming from federal taxpayers. Not only is the Energy Department providing GE and its partners—who include Caithness Energy, Google, and Sumitomo—a $1.06 billion loan guarantee, as soon as GE's 338 turbines start turning at Shepherds Flat, the Treasury Department will send the project developers a cash grant of $490 million.

On December 9, the American Council on Renewable Energy issued a press release urging Congress to quickly extend the 1603 program and the renewable-energy production tax credit, because they will ''bolster renewable energy's success and American competitiveness.''

But time is running short. Backers of the renewable-energy credits say that to assure continuity on various projects, a bill must be passed into law by March 2012. If that doesn't happen, they are predicting domestic investment in renewable energy could fall by 50 percent. A bill now pending in the House would extend the production tax credit for four additional years, through 2017. The bill has 40 sponsors, 9 are Republicans. The bill is awaiting a hearing by the House Ways and Means Committee.

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[From Los Angeles Times, July 24, 2011]

WIND FARMS MULTIPLY, FUELING CLASHES WITH NEARBY RESIDENTS

(By Tiffany Hsu)

TEHACHAPI, CA.—Donna and Bob Moran moved to the wind-whipped foothills here four years ago looking for solitude and serenity amid the pinyon pines and towering Joshua trees.

But lately their view of the valley is being marred by a growing swarm of whirring wind turbines—many taller than the Statue of Liberty—sweeping ever closer to their home.

''Once, you could see stars like you wouldn't believe,'' Donna Moran said. ''Now, with the lights from the turbines, you can't even see the night sky.''

It's about to get worse.

Turbines are multiplying at blistering speeds as wind developers, drawn by the area's powerful gusts, attempt to meet an insatiable demand for clean energy.

Helo Energy plans to scatter 450-foot machines across hundreds of acres in nearby Sand Canyon. A few miles away, near the Old West Ranch enclave, Terra-Gen Power is building the nation's largest wind farm with hundreds of turbines, if not more. The project, Alta Wind Energy Center, is backed by hundreds of millions of dollars from Google Inc. and Citibank.

Federal and local officials hail the Tehachapi Valley, a harsh desert expanse about 100 miles north of Los Angeles, as an alternative energy mecca that will help wean Americans off fossil fuel. Kern County, home to the nation's largest concentration of wind farms, is looking forward to millions of dollars in much-needed tax revenue and has approved most proposed installations.

But wind projects aren't only proliferating in the region's outskirts. Nearly 3,000 turbines, many of them bigger than Ferris wheels, were installed across the country last year.

The growth is being propelled by federal incentives and state clean-energy mandates. In April, Gov. Jerry Brown signed a law that requires California utilities to get 33% of the state's electricity from renewable sources by 2020. As of the first quarter of 2011, they're at 17.9%.

But with thousands more wind projects on the drawing board, they're increasingly generating opposition among local residents. Less than 100 miles from Tehachapi in the Antelope Valley, proposed turbine developments are facing similar resistance. Across the country, Cape Cod, Mass., residents and political heavyweights such as Sen. John Kerry waged war against what could be the country's first offshore wind farm.

And the issue isn't just with wind turbines, said Tom Soto, an environmental activist and managing partner of Craton Equity Partners.

''These large projects enter at their own peril without involving the community,'' Soto said. ''Just because they're renewables instead of landfills doesn't mean they're off the hook.''

Residents of Blythe, Calif., near the border with Arizona, showed up at the recent groundbreaking of Solar Millennium's massive solar plant there to protest its proximity to sacred Native American sites. Gleaming mirrors will blanket nearly 6,000 acres, helping to generate electricity for Southern California Edison.

In San Diego County, critics have spent the better part of a decade trying to block the Sunrise Powerlink transmission network, which would bring electricity from far-flung solar and wind farms.

Activists there and elsewhere say that the fight is more than a classic case of ''not in my backyard'' resistance. Large, remote projects aren't the only solution to the nation's energy woes, they say.

City-dwellers could produce just as much clean electricity without the transmission hassles, they said, using rooftop solar panels, small wind turbines, fuel cells and other adaptable forms of renewable energy generation.

''We're going to need to find space to place these projects,'' Soto said. ''A successful portfolio will be balanced, with some utility-scale projects and some urban projects.''

Tehachapi activist Terry Warsaw said he's worried his community will soon be surrounded by turbines.

''Alternative energy has lulled us into a sense of complacency,'' he said. ''The potential is here to take over every ridge and every mountainside if the community isn't careful.''

Veterinarian Beverly Billingsley has been hosting anti-turbine community meetings in her new Sand Canyon barn, just up the slope from where the cluster of 450-foot machines is slated for construction.

''They are not benign things,'' she said. ''We've seen turbines go berserk.''

The machines get no more sympathy from Mother Mary Augustine, who lives cloistered at the Norbertine Sisters Monastery in a cradle of hills recently eyed for wind development.

''Monstrous insects,'' she calls them. ''I look at the propellers for a moment and my head gets dizzy.''

It's not that they dislike alternative energy, residents say. Many employ solar panels and smaller turbines to power their homes.

Lately, though, locals say that farm animals have begun cowering as construction vehicles rumble across lawns and surveyor helicopters roar overhead. There are worries about turbine oil leaking into water wells and turbines obstructing landing maneuvers at the local airport.

''Avian cuisinarts,'' said Sand Canyon resident April Biglay. She worries that more turbines could slaughter birds or cause ground vibrations that could decimate native species.

''We are resembling hundreds of towns around the country,'' she said.

Last year, an older machine began spinning uncontrollably, forcing authorities to shut down a main freeway for hours. The resulting traffic was an anomaly in a community where most jams are caused by high school football games and meandering sheep.

Fire is also a concern, with turbines' finicky electrical wiring, long fire department response times and limited roads on which to flee.

And the turbines could topple in an earthquake, since they're situated in sedentary soil directly on the Garlock fault line, residents say.

Some suggest that removing trees to make way for the machines could lead to erosion and flooding.

They also argue that the projects aren't helping the local economy. Local residents say pickup trucks driven by construction workers often have out-of-state license plates. Each new project causes nearby property values to plunge as much as 40%, city officials say.

And because companies aren't required to dismantle the turbines when they stop functioning, many will join the hordes of ''mechanical dinosaurs'' that already crowd the area, critics say.

Other residents say they're tired of making sacrifices for electricity that will go to other counties.

''It's a question of what you're willing to give up to be green,'' said local lawyer Kassandra McQuillen of some recent project plans. ''It's like proposing clear-cutting Griffith Observatory or the cliffs of Malibu.''

Residents say they've won some victories. Developer Terra-Gen yanked its 7,000-acre Pahnamid project last month after opponents slammed plans to set up nearly 150 turbines on the Tehachapi crests.

''It is not unusual for projects to fall by the wayside early in the development process,'' Terra-Gen said in a statement. ''The decision to pull back in an early stage on the Pahnamid project was a result of several important development concerns, including local opposition.''

By the end of the year, the developer said it will have invested $2.2 billion in Kern County, become the county's third largest taxpayer with $30 million a year and made more progress building its 1,100-megawatt Alta project.

But with so many projects on the plate for the region, Tehachapi city officials are urging Kern County to impose a temporary moratorium on wind projects near homes. And the city that has long been associated with the fields of propellers is now trying to draw tourists by talking up its chili cook-offs, historic downtown and pristine mountains.

''We've coexisted with the turbines for a long time,'' City Council member Susan Wiggins said. ''But we don't want to look like one big wind park.''

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[From Boston Globe, Feb. 2, 2012]

TOWN TURNS OFF WIND, OPTS FOR SOLAR ENERGY

(By Robert Knox)

At a time of accelerating production of both wind and solar energy, Duxbury officials have decided to buy solar energy produced elsewhere and take their own wind project off the table.

''It's an opportunity to save money,'' Jim Goldenberg, chairman of the town's Alternative Energy Committee, said after town selectmen signed a 20-year agreement with a solar energy company that plans to build its facility in Acushnet.

The deal is expected to save the town up to $30,000 a year in energy costs and supply

about 25 percent of the energy the town needs to run facilities such as schools, Town Hall, and other buildings, officials say. The producer, Pegasus Renewable Energy Partners LLC of Marstons Mills, has yet to begin construction of the solar farm. It's expected to take about a year to begin producing power.

Duxbury is also moving ahead on a plan to lease its capped landfill to a private developer, American Capital Energy, a national company whose customers include the Army, to build a solar energy farm there. Town Meeting backed the project last fall.

The town's move to buy solar energy was made in conjunction with the Alternative Energy Committee's decision to put a hold on the possibility of building a wind turbine. The decision comes at a time when neighboring Kingston is touting the construction of five turbines within its borders. Kingston officials said their town's wind and solar projects together would earn up to a $1 million a year in new revenue.

Until recently Duxbury was planning to build a wind turbine, too. Goldenberg's committee had planned to seek funding from Town Meeting to continue its feasibility study of a wind turbine on town property next to its North Hill golf course.

But that plan came under attack by a group of residents who said they feared that living near a turbine would undermine their health, lower their property values, and alter the neighborhood's residential character. They hired an attorney, produced a report attacking the financial basis of the project, and won a vote from selectmen urging the committee not to seek funds for the project.

Local wind power advocates cried foul. They said opponents were relying on a corporate-quality website and dubious information supplied by an anti-wind lobby with little connection to the town.

But Goldenberg said his group chose the solar option solely based on a comparison of the economics of the wind turbine project relative to the solar deals committee members have been working on. The bottom line, he said, is that a wind turbine on North Hill would produce electricity at $.155 per kilowatt hour versus $.10 per kilowatt hour to buy solar, a 35 percent cost differential.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JORDAN NOMINATION

Mr. NELSON of Florida. Madam President, we are going to vote on Judge Jordan, a Cuban-American Federal district judge, who has been named by the President to go to the Eleventh Circuit Court of Appeals.

Judge Jordan came out of the Judiciary Committee unanimously. As Senator RUBIO and I spoke on Monday, the two of us, in a bipartisan way, do all of the selection of our Federal district judges—and it is all done in a bipartisan way.

In this case, with Judge Jordan being elevated to the Eleventh Circuit Court of Appeals—again, done in a bipartisan way and, indeed, the motion for cloture on the nomination; that is, to stop all debate on the nomination, was passed at a 5:30 vote Monday afternoon by a vote of 89 to 5. So at noon today, we are going to vote on the actual confirmation, which is the second step in the process: after the President nominates, the Senate confirms. Judge Jordan, by our vote today—which I expect will be rather overwhelmingly bipartisan—will ascend to the Eleventh Circuit Court of Appeals as the first Hispanic judge on that Court of Appeals.

I think it is instructive that we could have done all of this Monday at about 6:00 after the vote had occurred 89 to 5 to cut off debate. Yet the Senate rules allow even one Senator, if they object—which one Senator did object—to the waiving of the cloture cutting off debate. The Senate rules say there can be up to 30 hours of debate before the matter at hand is voted on.

Of course, with a vote of 89 to 5, it is pretty well determined, especially since Senator RUBIO and I were the ones who were bringing this judge to the attention of the Senate. Yet here we are.

It is now Wednesday at noon that it is going to take us to get to this judge. This is illustrative of how the Senate is not working. For whatever reason, the Senator who objected—which, by the way, it is my understanding that the Senator had no objection to the judge; it is some other extraneous matter and, therefore, wanted to slow up and throw rocks into the gears of the Senate so that what could have been dispensed with on Monday evening at 6:00 is now taking all the way until noontime on Wednesday, after the 30 hours have run.

For the Senate to function it has to have a measure of trust among Senators. It has to be bipartisan. The two leaders have to get along. In the process, a lot of the work is done by unanimous consent, with the consent of the two leaders, the Democratic leader and the Republican leader. But when things get too hyperpartisan or too ideologically rigid, then that is when the whole process, the mechanism goes out of kilter. It is just another illustration in this time of an election cycle for President where things are highly sensitive from a political, partisan, and ideological standpoint that a judge who is warmly embraced by both sides for his confirmation is getting held up.

I will close by recalling the reason that Judge Jordan got a vote of 89 to 5: He has had a stellar record as a Federal district judge. He has, over the course of his career, clerked, when he came out of law school, for a judge on the Eleventh Circuit. Then he clerked for Justice Sandra Day O'Connor. He went back and was an assistant U.S. attorney, and then went to the bench and has been there for over a decade.

This is the kind of person we want to have in the judicial branch of our government.

I commend him on behalf of Senator RUBIO. The two of us have been in a meeting all morning in duties of another committee, the Intelligence Committee. I commend to the Senate, on behalf of Senator RUBIO and me, Judge Jordan to be confirmed for the Eleventh Circuit Court of Appeals.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

SURFACE TRANSPORTATION ACT

Mr. JOHANNS. Madam President, I rise today to take a few minutes to comment on the bill that the Senate will soon be considering to state why I oppose the bill in its current form. I am speaking of the bill that we oftentimes refer to as the Transportation bill.

I do think this bill does some good things. I supported it coming out of the EPW Committee. It had very sound bipartisan support in that committee.

But there is a serious concern with the bill, a concern for all of us. Specifically, there is a provision in the bill that is what I would call an earmark. However, it is often referred to by our rule as a congressionally directed spending item. Let me again say, purely and simply, it is an earmark. That is why, even though I supported the bill in committee, I did feel very strongly about that provision and I felt compelled to vote against proceeding to the bill and that is why I am here today, filing an amendment.

This provision changes the purpose of an earmark that was included in the previous highway bill. Then the language goes on to do a second thing: It newly directs the money back to the same State where the earmarked project would have occurred, that being the State of Nevada. Let me repeat that. It takes an unspent earmark from a previous highway bill in Nevada and it replaces it with yet another earmark to the State of Nevada. I will go into further detail.

First, the bill identifies any unobligated balances associated with this earmark. The bill reads:

> . . . any unobligated balances of amounts required to be allocated to a State by section such and such of the SAFETEA–LU. . . .

In other words, it goes to the unobligated balances, which was an earmark. If you go back to the previous highway bill, this section 1307(d)(1) is an earmark in that previous bill. But it does not stop there. It does not stop by rescinding that earmark. It goes on to say in the text of the bill we are considering that this money ''shall instead be made available to such State . . .''—the State of Nevada.

So we have rescinded the earmark, but then we said the money goes back to the same State. In other words, the earmarked money is now directed by law, if this were to pass, back to the State where the project was to be built.

Two wrongs do not make a right. If several million dollars is sitting idly

by in an account and we want to rescind those funds, then that is pretty straightforward. We direct the rescission of those funds and do not earmark it to a specific State. If we are going to start the game, though, of earmarking—which I believe is what this does—obviously there will be a lot of other Senators who believe in earmarks who will say I want my turn also. I do not happen to believe in earmarks, but some of my colleagues would say: Look, if you can do this for one State, you can do it for my State. So if every State can direct specific spending to their own State, then we are right back in the business of earmarking.

I will not necessarily speak to the purposes behind the change in the project, although it is pretty clear from newspaper articles out of Nevada that this money is going to be used for a road project. I will leave the defense of the policy to others. What I will say is that the provision without a shadow of a doubt meets the definition of an earmark under rule XLIV of the Standing Rules of the Senate. The bottom line is that the provision in the bill will direct Federal funds to a single State.

Rule XLIV of our standing rules, the Standing Rules of the Senate, as we all know, defines what is a congressionally directed spending item. I will quote that rule:

. . . a provision or report language included primarily at the request of a Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State—

It goes on to say:

locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

There was a reason why that language is included in that rule and it is what is happening here. If you could simply direct funds to your State, then, as I said previously, we are back in the earmarking business.

Furthermore, the bill before the Senate was written based on the understanding that there would be no earmarks. Everybody is running around saying there are no earmarks in the bill. Everybody has been very public about saying that. That posture was well received. It was commended, in fact. It was commended, in my judgment, in part because many understood that a highway bill that included earmarks simply would not pass. In other words, a ''no earmark'' policy was necessary to get this bill done.

So at the moment I am very concerned that we will have damaged the Senate bill, our legislative process, and hurt the chances of a highway bill getting done. I think the highway bill makes a lot of sense for our country, but we have to solve this kind of problem. I cannot support the bill with an earmark for one State, the State of Nevada.

Even the President of the United States has weighed in on this. He has taken a very strong stand. He said, ''If a bill comes to my desk with an earmark inside, I will veto it.''

This highway bill is far too important for us to jeopardize its passage or to invite a veto by the President, just because the provision is very hard to find and buried at page 463.

I think there is a way to move forward on the highway bill, at least as far as this is concerned. I think our State and local leaders are hoping we pass a highway bill. There are a lot of good things that could happen with it, but this has to come out of the bill. This needs to change, and my hope is the Senate will agree to my amendment to do just that.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRANKEN). Morning business is now closed.

EXECUTIVE SESSION

NOMINATION OF ADALBERTO JOSE JORDAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The bill clerk read the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled in the usual form.

Mr. LEAHY. Mr. President, today the Senate will finally vote on the nomination of Judge Adalberto Jordan of Florida to fill a judicial emergency vacancy on the Eleventh Circuit. Finally, after a 4 month Republican filibuster that was broken by an 89 to 5 vote on Monday, and after Republicans insisted on two additional days of delay, the Senate will have a vote.

Judge Jordan is by any measure the kind of consensus nominee who should have been confirmed after being reported unanimously by the Judiciary Committee last October. Despite the strong support of his home State Senators, Senator NELSON, a Democrat, and Senator RUBIO, a Republican, Republicans filibustered and delayed this confirmation for months. They prevented the Senate from voting on Judge Jordan's nomination in October, in November, in December, and in January. And it should not have taken another 2 days after the Senate voted overwhelmingly to bring the debate to a close to have this vote.

This superbly-qualified nominee will be the first Cuban-American on the Eleventh Circuit. His record of achievement is beyond reproach. The only statements about this nominee—by me, by Senator NELSON and even by the Republican Senators who spoke—described him as qualified and worthy of confirmation. The stalling, the delays, the obstruction, even the votes against ending the filibuster were all about something else, some collateral issue. They should not have marred this process and complicated this nomination. They should not have delayed this moment when Cuban Americans will see one of their own elevated to the second highest court in the land. I appreciate the attention that Hispanics for a Fair Judiciary and the Hispanic National Bar Association have given this important nomination. Their work will finally be rewarded, as well.

The junior Senator from Kentucky held up this nominee for his own purposes—purposes having nothing to do with the nominee. He did it in order to gain leverage to force a vote on an unrelated and ill-advised amendment. You cannot amend a nomination. So now that he has forced the Senate into 2 days of inactivity, the Senate will finally vote.

As I said yesterday, the goals of Senator PAUL's amendment are already the law of the land. The new conditions on military aid for Egypt, which I wrote with Senator GRAHAM, passed by an overwhelming bipartisan majority and were signed into law just 2 months ago without Senator PAUL's support. Those conditions require certification by the Secretary of State that the Egyptian military is supporting the transition of civilian government and protecting fundamental freedoms and due process. Unlike Senator PAUL's proposed amendment, these conditions again, already the law—do not pose a risk of backfiring on us and on our ally Israel.

Moreover, once this misguided obstruction is ended and the Senate has voted to confirm Judge Jordan to fill the judicial emergency vacancy on the Eleventh Circuit, the Senate will turn back to its work on the surface transportation bill. As Senator BOXER said this morning, that bipartisan bill can save or create 2.8 million jobs. That, too, should be a priority, not a pin

cushion to attach ill-advised foreign policy amendments.

This is the kind of obstruction that is hard to explain to the American people. A Florida lawyer and former prosecutor was quoted in the Orlando Sentinel saying: ''It's a good reason why Congress' approval rating is 10 percent.'' He continued: ''Politics should have no place in the nomination and confirmation of excellent jurists like Judge Jordan. Shouldn't happen. We need qualified judicial nominees on the bench, big time.'' It is the kind of senseless obstruction that comes at a great cost to the millions of Americans living in Florida, Georgia and Alabama who are affected by the judicial emergency vacancy on the Eleventh Circuit. I am glad that they will finally have a judge to fill that vacancy.

I am certain that all Americans will be well served by Judge Adalberto Jordan. He has proven through his long career on the bench and as a prosecutor to be a public servant of tremendous quality and integrity. I congratulate Judge Jordan, his family, Senator NELSON, Senator RUBIO and the people of Florida on his confirmation today.

Mr. LEAHY. Mr. President, I am advised that there is nobody else who wishes to speak, so I ask unanimous consent to yield back any time and ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 19 Ex.]

YEAS—94

Akaka	Cochran	Inouye
Alexander	Collins	Isakson
Ayotte	Conrad	Johanns
Barrasso	Coons	Johnson (SD)
Baucus	Corker	Johnson (WI)
Begich	Cornyn	Kerry
Bennet	Crapo	Klobuchar
Bingaman	Durbin	Kohl
Blumenthal	Enzi	Kyl
Boozman	Feinstein	Landrieu
Boxer	Franken	Lautenberg
Brown (MA)	Gillibrand	Leahy
Brown (OH)	Graham	Levin
Burr	Grassley	Lieberman
Cantwell	Hagan	Lugar
Cardin	Harkin	Manchin
Carper	Hatch	McCain
Casey	Heller	McCaskill
Chambliss	Hoeven	McConnell
Coats	Hutchison	Menendez
Coburn	Inhofe	Merkley
Mikulski	Risch	Tester
Moran	Roberts	Thune
Murkowski	Rockefeller	Udall (CO)
Murray	Rubio	Udall (NM)
Nelson (NE)	Sanders	Warner
Nelson (FL)	Schumer	Webb
Paul	Sessions	Whitehouse
Portman	Shaheen	Wicker
Pryor	Shelby	Wyden
Reed	Snowe	
Reid	Stabenow	

NAYS—5

Blunt	Lee	Vitter
DeMint	Toomey	

NOT VOTING—1

Kirk

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Rhode Island.

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SANDERS. Mr. President, I ask unanimous consent that I and other Senators, including TOM UDALL and the Presiding Officer and Senator WHITEHOUSE, be permitted to speak for the next 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLOBAL WARMING

Mr. SANDERS. Mr. President, I fear one of the major issues that not only faces our country but faces our planet is not getting the kind of serious debate and discussion it needs in the Senate; that is, the planetary crisis of global warming, what its impact is having now in our country and in other countries throughout the world and how, in fact, we can address this enormous crisis.

I understand politically some of my colleagues do not believe global warming is real and they do not think there is much our country should or can do to address this crisis. I understand that. But with all due respect, I strongly disagree with that position and believe, in terms of the future of our planet, the lives of our kids and our grandchildren, that is a very wrongheaded position and could lead to enormous problems for our country and for the rest of the world.

But the truth is, the real debate about global warming is not whether other Members of the Senate disagree with me or Senator UDALL, the issue is what the scientific community, the people who have studied this issue for years, in fact, believes. As I think the Presiding Officer understands, the overwhelming consensus in our country and around the world from the scientific community is, A, global warming is real, and, B, to a very significant degree global warming is manmade.

That is not just my position, not just what I say or what other Members of the Senate say. Far more important, it is what leading scientists all over the world are saying.

The National Academy of Sciences in this country, joined by academies of science in the United Kingdom, Italy, Mexico, Canada, France, Japan, Russia, Germany, China, India, Brazil, and South Africa, has said—this is their statement, the National Academy of Sciences— ''. . . climate change is happening even faster than previously estimated'' and the ''need for urgent action to address climate change is now indisputable.''

It is fine for radio talk show hosts to have their view. Frankly, I think it is more significant that the scientific community from all over the world is in agreement. Let me repeat what they say: '' . . . climate change is happening even faster than previously estimated'' and the ''need for urgent action to address climate change is now indisputable.''

Mr. President, 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science, said:

> Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver.

That is not I; that is 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science.

They continue:

> These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

But it is not only the scientific community. It is agencies of the U.S. Government that have to deal or worry about the impact of global warming.

The Department of Defense says:

Climate change is an accelerant of instability.

What they worry about is, as the planet warms, as floods occur, as drought occurs, we are going to see migrations of people, we are going to see countries fighting over limited natural resources, whether it is farmland or whether it is water. From the Department of Defense perspective, they say, and I repeat:

Climate change is an accelerant of instability.

That is the U.S. Department of Defense—not BERNIE SANDERS.

The CIA—our intelligence agency—says: '' . . . climate change could have significant geopolitical impacts around the world, contributing to poverty, environmental degradation, and the further weakening of fragile governments,'' as well as ''food and water scarcity.''

That is not a Senator on the floor. That is the Central Intelligence Agency, the business of which is to gather and assess threats to our country.

Interestingly enough, there are segments of the business community that are also speaking out on climate change and global warming for their own reasons.

The insurance industry, in a report from the National Association of Insurance Commissioners, found there is ''broad consensus among insurers that climate change will have an effect on extreme weather events.''

What we are seeing is that scientists all over the world, academic institutions all over the world, governmental agencies right here in the United States of America—including the Department of Defense and the CIA—and the insurance industry saying global warming is real, it is a real threat to our planet, and it is imperative we address it.

I have more to say on this issue, and some of us will be on the floor for an hour, but I want to give the floor over to Senator TOM UDALL from New Mexico, who has certainly been a leading advocate in the fight for policies that will reverse global warming and move us in another direction.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, thank you so very much.

I first wish to ask my colleague from Vermont a little bit about some of the things he said that I find remarkable.

We are still in a very fragile recession. The economy is starting to grow, but it is not strong enough, and we could slip back. So what has happened is, we have these—what we call in this language—tax extenders. What we are talking about is jobs, isn't it? We are talking about the idea that we can have a clean energy economy; that over the last couple years this has been the fastest growing sector, and we have a production tax credit for wind, we have a section in the Treasury Department's 603, and those provisions create jobs.

I just wish to ask the Senator, it seems to me, at this particular time, we have the potential to grow the American economy, but we have to get off the dime because these things expire on February 29—in less than 2 weeks.

Mr. SANDERS. I say to my friend, he is absolutely right. The issue we are talking about now is not only trying to reverse global warming and save the planet, what we are talking about is creating, over a period of years, millions of good-paying jobs.

We may not know it from some media reports, but the fact is the solar industry in this country is exploding. All over this country, we are seeing more and more installations of solar panels, we are seeing the production of solar. One of the issues I think Senator UDALL is referring to is whether the United States of America will be a leader in sustainable energy or are we going to give that whole enormous economic area over to China.

I know the Senator and I are in agreement that we believe American workers can manufacture those panels. We think American workers can install those panels.

We also understand it is not just solar, it is wind; that these industries need some of the help that the fossil fuel industry has been receiving for years. I think we will also be talking about the whole issue of energy efficiency and weatherization, which in my State is enormously important. We are creating jobs, saving consumers money, as we retrofit their homes and cut back on their use of fuel.

So, yes, I say to the Senator, we are talking about a major jobs issue.

Mr. UDALL of New Mexico. I say to Senator SANDERS, the thing we should focus on, when it comes to wind farms, is how much these wind farms can be expanded in terms of jobs. The average wind farm in America built today has 50 large wind turbines. Each turbine can produce electricity to power roughly 500 homes, even accounting for the variability of the winds. So the average wind farm can power about 25,000 homes.

The average wind farm, then, produces many other benefits. This is what is remarkable to me: There is $20 million in construction payroll in a year from an average wind farm; $875,000 per year to rural local school districts; and also $280,000 per year to rural county governments; $150,000 per year in ongoing direct payroll for employees; $1.5 million in contract labor payroll; and $300,000 to $600,000 per year in royalties to land owners, farmers, and ranchers.

So when we talk about wind—wind power—what we are talking about is American jobs, clean energy jobs, growing the economy, and it mystifies me that our friends on the Republican side and in the House are saying: These things are going to expire in 2 weeks, and there is no hurry to push them, to put them in place, and to move it. Is that the Senator's understanding, that they are saying we are going to let them expire?

Mr. SANDERS. Absolutely. It is incomprehensible. Here we have technologies that are incredibly successful. They are producing substantial amounts of energy, without pollution, without greenhouse gases. They are creating jobs. Of course, we should continue these tax credits, these extenders to make sure these industries can flourish.

Some people may think when Senator UDALL and I talk about wind and solar, we are talking about some kind of fringe idea. Let's be clear; in the State of Texas today they are producing 10,000 megawatts of electricity through wind. That is the equivalent of 10 average-sized nuclear powerplants. That is not insignificant. In Iowa, as I understand it, about 20 percent of the electricity in that State is generated from wind.

So we are in the beginning, in the first stages of a real revolution to transform our energy system to clean, safe energy which, in the process, can create, over a period of years, millions of good-paying jobs.

So I would certainly agree with the Senator from New Mexico.

Mr. UDALL of New Mexico. I say to Senator SANDERS, one of the things that I think is very instructive is that the history of the wind production tax credit has been completely bipartisan. I would like to lay out a little bit of that history.

The production tax credit began in a bipartisan energy policy in 1992, signed by then-President George H.W. Bush. It was extended in December 1999 by a Republican Congress and signed into law by President Clinton. It was extended again in 2002 and in 2004, this time signed into law by President George W. Bush. In 2005, it was extended again as a part of bipartisan energy legislation, the 2005 Energy Policy Act. The Senator and I, I think, were both in the House at that time, and we voted for that in the House. In December 2006, it was extended again. Most recently, it was extended in the 2009 Recovery Act, which was signed by President Obama.

So Congress should continue this bipartisan tradition and extend the wind production tax credit, these other tax credits that create clean energy jobs, and stay focused on the good job we have been doing that has been bipartisan. That is why I do not understand the House, the chairman of the Ways and Means Committee saying: Oh, we can do these later. We need to do this work today. We need to put that in place now so that we can grow these clean energy jobs. Is that the Senator's understanding?

Mr. SANDERS. Well, the Senator is absolutely right. Everybody understands that if you are in business, if you are in wind or in solar, you have to be planning for the future. And if you do not believe or you are uncertain about whether these tax credits are

going to be available, what is going to happen is you are not going to go forward. We know there are examples right now of major projects that have already been canceled.

Furthermore, we are not talking—given the context of U.S. Government expenditures—about a huge amount of money, but it is money that I think is very well spent, protects our environment, and creates jobs.

I see the Senator from Rhode Island has joined us. Senator WHITEHOUSE has surely been one of the strongest advocates for our environment and the need to address global warming.

Mr. WHITEHOUSE. I am glad to have a chance to join with you today. I appreciate very much Senator SANDERS convening us on this day when we have agreed, it appears, to extend the payroll tax; we have agreed, it appears, to extend unemployment insurance; and we have agreed, it appears, to extend the payments for doctors under Medicare, under the so-called doc fix. And the one piece that has fallen out was the tax extenders that support our clean energy industry.

Our clean energy industry has more employees than Big Oil, and there are well-paying jobs. It is a growing industry, and it creates American manufacturing and American installation.

Senator UDALL was talking about the economic value of these wind farms. I know that in his home State, there are plenty of wind farms that are built on the land. In my home State, we are working toward having wind farms that are built offshore. And the ability to construct those giant turbines at Quonset Point in Rhode Island, in order to install them offshore and enjoy the power and the jobs that result, is something that is really important to us.

So I am glad the Senator has called us together to focus on this question of the tax extenders and also to focus on the environmental harm of climate change. I will turn it back to the Senator, but I wish to make one last point before I do, which is that there is a certain amount of sort of snickering around Washington about climate change, which is a unique feature to Washington. If you go out in the scientific community, nobody is laughing. They are very anxious. They are worried.

The major scientific organizations have all signed off on public letters urging us to do something about this because it is so significant. We have looked out at the first dozen billion-dollar storms year that we have had. Wherever you look around the world, we are seeing extreme weather. And the notion that when the scientists predicted extreme weather and now we are seeing it—if that should not be cause for additional concern, that really flies in the face of both prudence and reality.

The last area where we are really getting clobbered is with our oceans. As we pump, in human time, unprecedented amounts of carbon into our atmosphere, it is taken up by the oceans. It is absorbed by the oceans. During the course of the Industrial Revolution and to now, the oceans have absorbed enormous amounts of carbon. It is changing the oceans. It is killing off coral reefs in the tropical areas. It is making the oceans so acidic that the little organisms that are at the base of the food chain are having trouble growing to their proper size. It is becoming a hostile environment. Creatures do not live well in an environment in which they are increasingly soluble.

These are not theories, these are measurements by scientists who go out and actually measure what is happening. The blindness in Washington to this problem is something that is not only a cause for concern now but is going to be a cause for harsh judgment in history's eyes.

Mr. UDALL of New Mexico. Mr. President, may I just ask the Senator—and I know he may have other places to go, but he mentioned offshore wind on the Atlantic coast, and the study out of the University of Delaware indicated that off of the Atlantic coast there is the potential in wind to generate enough electricity to power the entire east coast group of cities—very large cities, as you know—from Providence, to New York, to Boston. And Google is already out there starting to lay the grid with some other partners. So we have huge potential to move forward, and basically what we are being told at this point is, oh, let these things expire.

That is a very shortsighted position. But that study about the coast is an eye-opener because it tells the American people: Look, here is clean energy. We do not have to import oil anymore. We do not have to bring in energy from outside. Just off our coast, we can go out there and put a grid in place and generate wind energy. I know the Senator has probably heard about this study.

Mr. SANDERS. If I can, let me just jump in to ask unanimous consent that Senators WHITEHOUSE, UDALL, and I be permitted to engage in a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. If I could ask Senator WHITEHOUSE and Senator UDALL a simple question—and Senator WHITEHOUSE raised this issue—all over the world, there really is no debate within the scientific community about the reality of global warming, the basic causes of global warming, the severity of global warming. Yet suddenly here in this Congress it becomes a major political issue. We fund the National Institutes of Health. We fund scientific organizations. They do research on cancer. They do research on heart disease. They do all kinds of research. I don't see great political debate about what this says. And suddenly, when you have almost unanimity within the scientific community, this becomes this great dividing political issue. How did it happen that where there is so much unanimity among the scientific community in this country and around the world, this has become such a hot-potato political issue?

Mr. WHITEHOUSE. Special interests would be my answer. We have seen it before. We saw the science mocked that tobacco was injurious to human health. We saw the science mocked that the lead in paint was injurious to children. And now we have seen mockery of the science that shows that when you put unprecedented amounts of carbon into the atmosphere, it changes things.

The science is actually not new. The scientist who created the global warming theory was a scientist named Tindall who published his work around the time of the American Civil War, and it has never been controversial. The idea that when you put enormous amounts of carbon into the atmosphere, it creates a warming effect, a blanketing effect, we have known this literally since the horse-and-buggy era. The difference is that there are now powerful special interests that are involved.

To Senator UDALL's points, we are at a point of choice. We can choose to go toward having the environmental needs of the country met and the energy needs of the country met with clean, American-made, manufactured power that is renewable. The Senator is right about the capabilities of offshore wind on the east coast, but that is not the only road we can take. We can continue to support multinational megacorporations that have no loyalty to any flag or nation, that traffic internationally in oil, and that want to make sure that we stay, as President Bush said, addicted to oil. There is a choice, and I think those special interests have a clear desire as to what choice this country should make. I happen to believe it is contrary to this country's national interests, so that is why we are here fighting to try to steer in the other direction.

Mr. UDALL of New Mexico. Just to the point of why we aren't able to move—and I agree with Senator WHITEHOUSE, and I think Senator SANDERS has seen this also—when you get into energy, there are huge, powerful special interests—especially those special interests that are representing fossil fuels—and they would love nothing better than to just have the status quo. What we have seen is they are relying—and this is amazing to me, and the Senator has been one of the leaders on this issue where Big Oil is getting subsidies today from the Federal Government, and we have tried to take those Big Oil subsidies and move them over into the clean energy area. They resist that even though President Bush and the leaders of their industry say: We don't need these subsidies.

Mr. SANDERS. If I could just point out, picking up on Senator UDALL's point, in recent years we have seen, as everybody in America knows—not only

are we paying outrageously high prices at the pump, but we are seeing oil companies making huge profits. My recollection is that in the last 10 years the oil companies have made about $1 trillion in profits. ExxonMobil has made more money than any corporation in history. Yet, over the last 10 years, there have been examples, there have been cases in a given year where a major oil company—ExxonMobil being one—made huge profits, billions in profits, and ended up paying zero in Federal income taxes and, in fact, got a rebate. So you have this absurd situation where hugely profitable oil companies are paying nothing in taxes, and some of us think that does not make any sense at all. We think they should pay their fair share and that to a significant degree that money should go into sustainable energy so that we can break our addiction to oil.

Mr. WHITEHOUSE. And the results are really profound.

I will close with this point in this discussion. For as long essentially as mankind has been on this Earth, for 800,000 years—to put 800,000 years in scale, we have probably been engaged in agriculture as a species for 10,000 or 15,000 years. Before that we were pure hunter-gatherers. So 800,000 years—8,000 centuries—is an enormous period of time in human history. It is essentially the entire sweep of the human species on the face of the Earth. Throughout that period, we have existed within an atmosphere that stayed within a range of carbon concentration. For the first time in 8,000 centuries, we have now rocketed outside of that range. That ought to be a pretty significant warning to us that we are in new and untested territory in terms of the basic conditions of the environment that supports our species. And because the concentrations in the atmosphere have grown so greatly, so has the acidity of our oceans. If you go back into geological time to look at what changes such as these can potentially lead to, you see really massive adverse events such as catastrophic die-offs of species.

So we are playing with potentially very big consequences. We are playing outside of the boundaries that have governed our planet for 800,000 years, and we are refusing to correct what is going on, I believe, as both of you have pointed out, because of one predominant reason; that is, the power of special interests to phony-up a debate in this town.

Mr. UDALL of New Mexico. Two weeks from today, the payroll tax cut championed by the President and extended by Congress in December will expire.

Congress should renew this financial relief to American working families while our economy is still recovering.

For a family making $50,000 a year, the payroll tax cut means about $1,000 a year, or about $40 in every paycheck.

I'm encouraged by recent progress that Congress will resolve this issue, but the payroll tax cut is not the only tax provision that can create jobs in New Mexico, and across the Nation.

The production tax credit for wind is set to expire at the end of this year. The Treasury Grant Program for renewable energy tax credits expired this past December.

One of the best things we can do to help our economy recover is invest in the clean energy economy. It has created the jobs of the future while the broader economy was struggling. According to the Brookings Institute, the clean energy economy grew twice as fast as the broader economy during the recession.

To maintain the growth of wind energy jobs, Congress should renew the production tax credit as part of the payroll tax cut. If we wait until the end of the year, or delay until 2013, many projects will be delayed and thousands of jobs will be lost. The production tax credit has, by any measure, been extraordinarily successful. It was first used in 1992 and has led to the installation of wind energy capacity in America equivalent to 75 average coal-fired power plants, and it is rapidly growing.

We added the equivalent of 10 large power plants worth of wind power in 2011, and are on track to do even more in 2012. In New Mexico, we have enough wind power either already built, or currently under construction to power 200,000 homes. New Mexico has tremendous wind capacity, with 20 times more capacity in the planning stages. Those plans depend in large part on Congress continuing to support the American wind industry. The tax credit has been extended seven times by Presidents and Congresses of both parties.

Wind is becoming cost-competitive with fossil fuels. A 4-year tax credit extension would allow the industry to thrive long term. With 60 percent of wind turbines made in America, the beneficiaries of the wind production tax credit are legion, including: U.S. iron and steel producers, over 400 U.S. manufacturing facilities in 43 States, 85,000 employees in well-paid engineering and technical jobs, thousands of farmers and ranchers who lease their land, rural school districts that receive tax payments, and rural local governments.

The future is wide open. The Department of Energy estimates the U.S. could receive 20 percent of its power from wind by 2030. Wind is not just in the west and midwest. The east coast can be powered by huge offshore wind resources in the Atlantic Ocean.

If the wind production tax credit is the engine for the clean energy economy, the Treasury grant program is the turbo boost. Enacted as Sec. 1603 of the Recovery Act, this program allows renewable energy tax credit earners to receive the value of the tax credit as a grant.

This eliminates the need for complex financing arrangements and finding other parties who are able to use the tax credits. Typically financial institutions will receive 10 or 15 percent of the value of renewable tax credits in return for financing a project.

The Treasury grant program removes the middle man, and has led to the rapid expansion of renewable energy in the last 2 to 3 years, especially with solar energy. Until it expired in December, the program awarded over 4,000 grants worth $1.75 billion for 22,000 solar projects in 47 States.

This innovative financing then supported over $4 billion in private sector investment. One report found that an extension of the program would create an additional 37,000 jobs in 2012 in the solar industry alone. China, the EU, India, Japan, and other nations are acting aggressively to take leadership of the clean energy economy. They want the job growth and the energy security that results.

I am confident that our workers and entrepreneurs can compete with anyone.

But if we do counterproductive things, and pull the rug out from underneath our fastest growing clean energy industries, our economy and our energy security will fall behind. The payroll tax extension is a logical vehicle for extending other expiring tax provisions that benefit the economy.

On the other hand, the payroll tax extension is a terrible place to make unrelated policy that subverts Congressional process on behalf of special interests. The Environmental Protection Agency is, by and large, following the Nation's long-standing environmental laws and court orders when it updates standards to reduce pollution.

If Members are opposed to the Clean Air Act or the Clean Water Act, then they can propose bills to change those laws. Pollution does not create jobs. In fact, reducing pollution saves money for business and reduces health care costs for citizens. I am personally opposed to wholesale rollbacks of long-standing, bipartisan environmental laws.

But I am even more strongly and passionately opposed to backdoor attempts to undermine those laws on unrelated legislation.

Congress has voted down several resolutions of disapproval for EPA updated standards.

While I have opposed those efforts in the past, at least that is a legitimate process under the Congressional Review Act.

Holding much needed tax relief hostage for anti-environmental policy riders will not stand up to public scrutiny.

We must remain vigilant and keep upcoming legislation focused on tax relief that will benefit working families and invest in clean energy jobs.

I ask unanimous consent to have printed in the RECORD.

The material was ordered to be printed in the RECORD, as follows:

FACTS ABOUT AN AVERAGE AMERICAN WIND FARM

An average wind farm in America built today has about 50 large wind turbines.

Each turbine can produce electricity to power roughly 500 homes, even accounting for variability of wind.

So the average wind farm can power around 25,000 homes.

That average wind farm then produces many other benefits: $20 million in construction payroll in the year of construction, $875,000 per year to rural local school districts, $280,000 per year to rural county governments, $150,000 per year in ongoing direct payroll for employees, $1.5 million per year in contract labor payroll, $300,000 to $600,000 per year in royalties to landowners, farmers, and ranchers.

Mr. UDALL of New Mexico. Mr. President, as to the history of the wind production tax credit, the production tax credit began in the bipartisan Energy Policy Act of 1992, signed by President George H.W. Bush.

It was extended in Dec. 1999, by a Republican Congress and signed into law by President Clinton.

It was extended again in 2002 and 2004, this time signed into law by President George W. Bush.

In 2005, it was extended again as part of bipartisan energy legislation, the 2005 Energy Policy Act.

I voted for that legislation when I served in the House.

In December 2006, it was extended again.

Most recently, it was extended in the 2009 Recovery Act, which was signed by President Obama.

Congress should continue this bipartisan tradition, and extend the wind production tax credit very soon.

We should avoid the mistakes of the past, where last minute extensions led to uncertainty and job losses.

I would like to thank the Senator for asking us to come to the floor, for leading this debate. This is a debate we need to carry on until we get the production tax credits and other tax extenders in place and move our clean energy industry forward.

I thank the Senator for that.

I yield the floor.

Mr. SANDERS. I thank the Senator for the good work he is doing. What I would like to do is just pick up on a point Senator WHITEHOUSE just raised; that is, the record of history shows us that we cannot take the climate for granted. Our relatively limited experience of advancement over the last 10,000 years, during the time of stable climate on a planet that is billions of years old, has distorted our view of the Earth's complex climate system.

A recent National Academy of Sciences report stated:

> . . . it seems clear that the Earth's future will be unlike the climate that ecosystems and human societies have been accustomed to during the last 10,000 years. . . .

That is the point Senator WHITEHOUSE just made, and that is according to the National Academy of Sciences.

The reason is that human activities—primarily the burning of fossil fuels—are increasing greenhouse gas emissions and causing global warming. According to the U.S. Global Change Research Program, ''global warming is unequivocal and primarily human induced.''

We have altered the climate that has sustained humanity for the last 10,000 years. We are now at 392 parts per million of carbon dioxide, up from 280 parts per million in the 18th century. What an extraordinary increase in carbon dioxide in that short period of time. And greenhouse gas levels are rising steadily. In fact, carbon dioxide levels are increasing faster than at any time on record, according to our EPA.

Maybe that 392 parts per million seems like an abstract number, so let me put it into context. According to UCLA researchers, the last time carbon dioxide levels were consistently this high—the last time—was 15 million years ago—15 million years ago. The Earth, at that time, was warmer by 5 to 10 degrees Fahrenheit than it is today. At that level of warmth, there is no permanent sea ice in the Arctic and little, if any, ice on Antarctica and Greenland.

That explains, in part, why sea levels at that time were 75 to 120 feet higher than today. If sea levels today even approached half that level, we would inundate—inundate—major coastal cities around the world and create hundreds of millions of displaced refugees. And that is what we are talking about.

So let me repeat: The last time carbon dioxide levels were consistently this high was 15 million years ago, at which time the Earth was warmer by 5 to 10 degrees Fahrenheit than it is today.

There is no doubt, if we do nothing to reverse global warming, we are doing more than just threatening harm to the environment. We are jeopardizing the future of our planet and much of humanity. All too often we talk about global warming as if the impact will be somewhere down the line—maybe in 100 years, maybe in 200 years, and isn't it too bad those polar bears are trying to get by on that little block of ice. The reality is that global warming is impacting our planet today, and the impact is devastating.

Mr. President, I see the Senator from Minnesota is here. He has been very active on this issue, and I know he has some important points to be made, so I yield the floor for Senator FRANKEN of Minnesota.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Minnesota.

Mr. FRANKEN. I thank the Senator from Vermont and also the Presiding Officer and the Senator from Rhode Island for engaging in this colloquy that is so important.

Mr. President, I rise today to urge my colleagues in the Senate to support an extension of the renewable energy production tax credit. This tax credit, slated to expire at the end of this year, has created thousands of jobs for the wind industry, has reduced our dependence on foreign oil, and is hugely important to Minnesota and to the Nation. But because it takes a lot of time to order and manufacture new wind turbines, investors need to know the credit will exist in 2013 or else they will not invest. That is why the credit must be extended now, along with the payroll tax extension and unemployment benefits.

If Congress lets the renewable energy production tax credit expire, we will let down the 80,000 people working on wind farms and manufacturing facilities across the Nation, and we may cost this country $10 billion in lost investment. Already, because of uncertainty about the fate of the production tax credit, investment in the wind industry is drying up. America cannot afford to wait any longer. Congress must act now to extend this important measure for American business and manufacturing and, indeed, for the future of our planet.

Just a few weeks ago, I received a letter from Terry and Janet Carlson, who run a family farm in Parkers Prairie, MN, and are developing a wind project in their community. They write:

> Our family believes in renewable energy and the benefits it can provide to our local community. Besides being environmentally friendly, wind energy has proved to be a great economic benefit to the State of Minnesota and small communities such as ours. But the 2012 expiration of the production tax credit has created a high level of uncertainty in the wind industry. . . . We have a significant amount of time and money invested in this project and the production tax credit expiration has a significant impact on our project moving forward. It also has a significant impact on the thousands of renewable energy related jobs in America and the economic boon it would provide to our community.

Terry and Janet have good reasons to be concerned. A Navigant Consulting study found that if the tax production credit is not extended, construction of wind turbines will drop by 75 percent in 2013. That means a lot fewer manufacturing jobs and construction jobs. And, in fact, if Congress fails to extend the production tax credit, the wind industry will lose half of its jobs, dropping from 80,000 in 2012 to 41,000 in 2013. That means 39,000 well-paying construction and manufacturing jobs will evaporate if Congress fails to extend this tax credit.

What a shame that would be. We have had this discussion. We have had a colloquy before on global warming. As the Senator from Vermont said in his opening remarks, the world community knows this exists. The world scientific community knows where this is going. And so China is doing wind, Germany is doing wind, and Denmark is doing wind. This is the future of our energy. If we stop producing wind energy, we are going to cede this to the rest of the world. If we don't act now, and renew the production tax credit, we are going to lose 40,000 jobs right now, but we are also going to lose the future.

On the other hand, this tax policy has major potential for the American

economy now and in the future. With a 4-year extension, the production tax credit will continue to support growth in the wind industry, boosting construction of wind farms by 25 percent, and instead of losing 39,000 jobs, an extension of the wind production credit will create 15,000 additional well-paying construction and manufacturing jobs.

With the help of the renewable energy production tax credit, the wind industry has been a bright spot in these tough economic times. There are over 400 facilities across 43 States manufacturing for the wind energy industry. Sixteen of these facilities are in Minnesota and support about 3,000 jobs. Currently, a majority of wind industry parts are produced here in America.

I think that is so important. We talk about the future of our economy. We talk about all the time here, or at least should be talking about all the time here, the future of our economy. Think about that. Over half of wind energy parts are now produced here in America, whereas in 2005, a quarter of components were made in this country. That is what we have to continue to do. That is the story we want to hear.

Instead of exporting manufacturing jobs to other countries, the wind industry has been bringing well-paying, high-tech jobs back to America, where the technology was first invented, and that is thanks to the renewable energy tax credit. If we don't extend this tax credit, we will fail these facilities and the people whose jobs are at stake. As uncertainty about the tax credit deepens, we have already seen that orders to wind manufacturing facilities are slowing down and companies are making layoffs.

This is our fault, here in Congress, and it is unacceptable. The longer we wait, the worse the layoffs and shutdowns will become. In fact, if we don't extend the tax credit this month, it will be too late for the wind industry to build any turbines in 2013. Wind turbines are big, and wind farms need to plan and order parts a year in advance. If the wind farms can't depend on the tax credit of 2013, they can't make plans to build for the next year, which means they can't make orders to 400 manufacturing facilities across the country for parts.

Because of the uncertainty of the tax credit in 2013, production now in 2012 has already come to a halt. That is why we need to extend this tax credit now, immediately, in the payroll tax package.

For the past several months, we have been celebrating reports that the unemployment rate is improving. This is fantastic news. But we can't rest on our laurels yet. We must be sure to enact smart policies that promote businesses and job growth in the parts of the economy that need it most and which are the future. The renewable energy tax credit does just that. It will promote growth in manufacturing and construction—industries that deserve our help the most.

America has tremendous wind resources, most of which are still untapped. Take Minnesota, for example. We are ranked fifth in the country for the most installed wind capacity. Yet our wind resources could still provide 25 times more energy. This is a huge opportunity for this country—an opportunity that we can't afford to dismiss.

Wind blows all over this Nation. It blows in red States and in blue States alike. It is an abundant, cheap, clean energy resource that is proving to be a boon to our economy. We cannot stop developing it now. I urge my colleagues to extend the renewable energy production tax credit immediately, at the same time we extend the payroll tax cut and unemployment benefits.

I want to thank the Presiding Officer for his leadership, and I want to thank the Senator from Vermont and the Senator from Rhode Island, and so many others, who are leading this fight. This is smart on an economic basis, but we are facing a crisis that scientists around the world agree on.

I yield to the Senator from Vermont. I have said what I wanted to say about the wind production tax credit and the other renewable energy tax credits. I thank the Senator from Vermont for his leadership.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I thank the Senator from Minnesota.

The point that he makes is indisputable; that is, if we are serious about creating decent-paying, meaningful jobs in this country, why in God's name are we not extending 1603 for solar and wind and the renewable energy tax credit? This will enable us to create good-paying jobs, make sure sustainable energy is an important part of our economy, and allow this country to play a leadership role in reversing greenhouse gas emissions and combating global warming.

I think there are some people who say: Well, maybe global warming might be real, but we don't have to worry about it today. Its impact will not be seen for decades or centuries to come. I would suggest that is not quite correct. We are seeing the impact of global warming climate change right now. Let me give an example.

According to studies, in my own State of Vermont in northern New England, if we fail to reverse global warming we will see continued temperature increases. Vermont's climate, by 2080, is projected to be similar to Georgia's climate today. Mr. President, 2080, in the great scheme of things, is not all that far away. To think that Vermont, northern New England, will have a climate similar to Georgia's today is rather extraordinary if that takes place by the year 2080. Clearly, if that trend takes place, it would be devastating in many respects for Vermont, including our winter tourism and our sugar maple producers, among other aspects of our economy.

Lake Champlain, our beautiful lake which borders New York State and Vermont, which used to freeze for 9 out of every 10 years in the early 20th century, froze over just three times in the 1990s and has not fully frozen over since 2007. So in my small State, the State of Vermont, northern New England, we are seeing the impact of climate change today. The idea that by the year 2080 Vermont's climate will be similar to the State of Georgia's climate today is just unthinkable and extraordinary and tells us the impact that global warming is having.

According to NASA, 2010 tied 2005 for the warmest year since records began in 1880. Nine of the ten warmest years on record have occurred since the year 2000. The last decade was the warmest on record.

We have seen temperature records being recorded all over the planet in the year 2010. During that year, Pakistan set a record for recording the highest temperature ever in Asia, hitting 129 degrees Fahrenheit. Iraq set its own record for high temperatures at over 125 degrees. Sudan reached a record 121 degrees. Los Angeles, right here in our country, had a record 113-degree day. Houston, TX, set a record for its highest monthly average temperature.

In the United States, according to a New York Times article, two record-high temperatures are now set for every one record low. The National Climatic Data Center shows that 26,500 record-high temperatures were recorded in weather stations across the United States in the summer of 2011. Texas set the record for the warmest summer of any State since instrument records began. Oklahoma set a record for its warmest summer, exceeding the record set during the Dust Bowl era in the 1930s.

But we are not just looking at hot temperatures and hot days. What are the impacts of those kinds of weather changes? What does it mean to people's lives? Scientists used to say they could not tie a particular event to climate change. That is no longer true. Our understanding of climate and extreme weather has advanced.

NASA's James Hansen and his colleagues can say that some of the extreme heat waves we have seen, such as those in Russia and Texas and Oklahoma, over the past several years were caused by global warming because their likelihood would be negligible if not for global warming.

Let me give some other examples of what global warming is doing in terms of heat waves and its horrendous impact on the lives of people.

Some of us remember Europe in 2003. During that period in Europe, 2003, a heat wave caused temperatures to reach or exceed 100 degrees Fahrenheit in the United Kingdom and France and led to high temperatures throughout Europe for weeks which killed 70,000 people, according to the World Health Organization. Many older people, people with respiratory problems, people

who were fragile in health died during that period. In the heat wave in Europe in 2003, 70,000 people died.

In Russia in 2010, a week-long heat wave sent temperatures soaring above 100 degrees Fahrenheit in areas where the average temperature that time of year is 67 degrees. Mr. President, 56,000 people died during that period as a result of that heat wave, and wildfires created a smoke plume nearly 2,000 miles wide, which was visible from space.

So this is not some kind of abstract issue: Oh, my goodness; isn't it too bad it is really hot today. What we are talking about are prolonged heat waves that kill substantial numbers of people.

In India in 2010, they recorded temperatures of over 100 degrees that killed hundreds of people; Chile in 2011, a heat wave, drought, and wildfire destroyed 57,000 acres of forest and land and forced 500 people to evacuate; Australia in 2012, the start of 2012 was the hottest start of any year for Australia in the century, according to ABC News, with temperatures exceeding 104 degrees and electricity cut off in some areas to prevent the igniting of fires.

Prolonged and more severe drought is likely to increase as global warming continues, according to the National Center for Atmospheric Research in Colorado. This means increased risk of crop failure, wildfires, and water scarcity. A recent study published in Scientific American found that climate change has cut production of cereal crops—wheat, rice, corn, soybeans—causing these crops to be nearly 19 percent more expensive than if global warming was not occurring.

I could go on and on about this issue. But the main point I want to make is the following, and let me summarize it here. According to virtually the entire scientific community in the United States of America and around the world, according to virtually every agency of the United States Government, global warming is real, and it is significantly caused by human activity. People are mistaken if they believe the impact of global warming will just be in decades to come. We are seeing very negative impacts today. The scientific community tells us if we do not begin to reverse greenhouse gas emissions, those problems in America and around the world will only get worse.

If there is a silver lining in all of that, it is that right now we know how to cut greenhouse gas emissions. We know how to move to energy efficiency, mass transportation, and automobiles that get 50, 60, 100 miles per gallon. We know how to weatherize our homes so we can cut significantly the use of fuel. What we also know is that in the middle of this recession, if we move in that direction—energy efficiency and sustainable energy—we can create over a period of years millions of good-paying jobs.

Let me conclude by saying: we now have the opportunity to be in a win-win situation. We can save consumers money, we can significantly reduce greenhouse gases and protect our planet, and we can create substantial numbers of jobs that we desperately need in the midst of this terrible recession.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYNTHETIC DRUG USE

Mr. GRASSLEY. Mr. President, in the fall of 2010 I came to this Chamber to speak about my growing concern of synthetic drug use in this country.

Specifically, I raised concerns about a popular new drug known as K2, or Spice, and I learned about this myself for the first time because a constituent of mine by the name of David Rozga committed suicide. David killed himself shortly after smoking a package of the drug he and some friends bought at a local shopping mall.

At the time, David's death in June 2010 was one of the first associated with what was a new and very dangerous drug craze. Nearly 2 years after David's death, the use of synthetic drugs like K2 has exploded and is becoming a major problem across the country.

In 2009 the American Association of Poison Centers reported only 13 calls concerning synthetic drug use. One year later, in 2010, over 1,300 calls were made to poison centers about synthetic drugs. So I have gone from 2009 to 2010, and now 2011. We have gone from 13 to 1,300 to last year, 12,000 calls to poison centers regarding synthetic drugs.

The Monitoring the Future Survey, a survey of high school youth, asked students for the first time last year if they ever tried synthetic drugs. Roughly one in nine high school seniors responded they used synthetic drugs last year.

These numbers are quite obviously an astonishing increase in just 2 years and they illustrate, of course, how rapidly the use of these drugs has come on the scene. These drugs are having a terrible effect on those who use them. Emergency room doctors across the country are reporting increasing uses of synthetic drugs in the number of users coming to the hospital.

My staff heard from one such doctor from upstate New York about what she has seen. Dr. Sandra Schneider, from Rochester, NY, reported that users in her ER experienced psychotic episodes, rapid heart rate, very high blood pressure, and seizures. In some cases, users—many of whom were in their teens and twenties—suffered heart attacks and strokes and died as a result. Other cases involved users who tried to kill themselves, harm others, or got into a car accident while high on these synthetic drugs.

How do we get from practically no use to where we are now? The people who manufacture and sell these drugs have circumvented the laws to easily sell synthetic drugs online, at gas stations, in novelty stores at the local shopping malls, and in tobacco stores and other shops. Many of the drugs are manufactured overseas, in countries such as China, and then imported into the United States. They spray chemical compounds, that have not been tested on humans and were not intended for human consumption, on dried leaves. They package and market these drugs to appear as legitimate products such as incense, bath salts, plant food, and snow remover. They slap a label on these packages stating that the product is not for human consumption to get around FDA regulations.

Over 30 States have passed laws to ban various synthetic drug compounds. The Drug Enforcement Administration has also acted to stop these drugs. Although the DEA has used its emergency scheduling powers to control seven chemical compounds, there are too many on the market now for DEA to go through the long and laborious process to schedule each and every one. The makers of these drugs know this as well and have altered their chemical formulas—some as little as a molecule—to get around existing State and Federal laws.

This is exactly the case in my home State of Iowa. Iowa passed a law last year that banned many chemical compounds. However, the law only listed a specific set of chemical compounds and the drugmakers are now altering their formulas.

Recently, two Iowa youths have become victims of the new drugs. One is a Polk County teenager who got into a high-speed crash smoking a product called 100 Percent Pure Evil.

This teen had two other passengers in her car. After smoking this product the driver became agitated and stated she wanted to kill herself. She started driving her car into several trees. When paramedics arrived at the scene they reported that everyone was badly hurt and the driver was vomiting blood. Thankfully all passengers survived the crash.

Another teen in central Iowa experienced a near-death experience after smoking the same product. This teen purchased the product—remember the name, 100 Percent Pure Evil—purchased it at a local store and started convulsing and vomiting shortly after smoking the drug. Once a paramedic got this boy into the hospital he fell into a coma. He, however, awoke from the coma the next day but had failed to recognize his mother or grandmother at the hospital. Thankfully this boy has since recovered his memory. Now he suffers occasional anxiety attacks.

When the boy's mother told the police about the product and where he got it, she reported that the police told her there was nothing they could do about it because it was not known what was in the product and it may be legal. This product is still being reviewed to see if any compounds fall under Iowa's law.

Nearly a year ago I introduced this legislation we named after the person who died 2 years ago, David Rozga. I introduced this bill with Senator FEINSTEIN. It bans the chemicals that comprise K2/Spice. We designed the legislation to capture a wide variety of compounds so it would not be so easy to circumvent this law by altering the molecule. In fact, the Iowa Governor's Office of Drug Control Policy is crafting new legislation based on the legislation I introduced last year that captures more substances. My legislation was unanimously passed out of the Judiciary Committee 8 months ago. It is currently being prevented from consideration by the full Senate by one Senator. The House of Representatives passed its version of the Synthetic Drug Control Act overwhelmingly last December, with over 70 percent of the Representatives supporting scheduling these drugs.

Many of the opponents of this legislation stated on the House floor that by scheduling these compounds we are preventing scientific research. This is far from true. Any scheduled substance, even current Schedule I drugs such as cocaine and heroin, can be researched. Any scientist can apply to be registered by the DEA to research any drug. Just because we are removing the drugs from the store shelves does not mean we cannot study them.

I say to my colleagues, it is now time for the Senate to take action. We cannot let the will of one Senator obstruct the will of many. I believe if our legislation received a vote and a fair debate in this body, it would pass overwhelmingly. So I urge my colleagues to support our efforts to get these drugs off the store shelves and off the streets, and I urge the Senate leadership to allow a debate and a vote on the issue. The American people, people such as the Rozga family and others who have been victims of these drugs, want to see this poison removed from their communities.

I appreciate working together with the Senator from Minnesota and the Senator from New York on this bill and similar bills as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I come to the floor today to join my colleague, Senator GRASSLEY of Iowa. I thank him for his remarks. I think you can tell this is a very important issue but also one that is bipartisan. As he pointed out with the vote on the House side, this was a bipartisan issue over there. It was bipartisan on the Judiciary Committee. We simply need to allow for a debate and a vote in a timely manner on these bills.

I also know Senator CHUCK SCHUMER from New York will be joining us, another senior member of the committee. We are all three on the Judiciary Committee, with Senator GRASSLEY being the ranking Republican on the committee. So we have much support for this bill.

Today I want to take a few minutes to add to the comments of Senator GRASSLEY about the growing threat to people of all ages, but particularly to our young people, of the dangerous synthetic drugs that are becoming, sadly, more and more common in our communities.

There have been reports from States around the country of people acting violently while under the influence of these drugs, leading to deaths or injuries to themselves or to others. While taking these drugs, people can experience elevated heart rates and blood pressure, hallucinations, seizures, and extreme agitation. They are very dangerous.

These synthetic drugs have exploded as an issue in recent years. Until 2006 I was the county attorney for Hennepin County, which is Minnesota's largest county. It actually is about a fourth of our State in terms of the population. During that time two words I never heard were ''synthetic drugs.'' We were focused on crack, we were focused on methamphetamine, we were focused on laws to contain that, but synthetic drugs were not something we talked about. It is an example of how quickly this drug has come on the scene. Poison control centers and emergency rooms from across the United States are reporting dramatic increases in the number of calls and visits relating to synthetic drugs. In 2011, poison control centers across America received more than 13,000 calls about synthetic drugs. Think about that. Do you know what the number was in 2010, a year before? It was 3,200; it was 3,200 in 2010, 13,000 in 2011. In Minnesota there was a total of 392 calls to poison control relating to synthetic drugs in 2011, compared to 111 in 2010, so you are seeing a four-times increase in our State and across the country in terms of the rise of this drug.

A recent report by the National Institutes of Health shows that one in nine high school seniors admitted to using synthetic marijuana during this past year, so it is clearly a rapidly growing problem.

This all hit home in my State with the tragic death of 19-year-old Trevor Robinson in Blaine, MN, who overdosed on a synthetic hallucinogen known as 2C-E. Last year another young man shot himself in our State under the influence of synthetic drugs. I can only imagine the pain and anguish their friends and families must feel. It is anguishing. This is a life-and-death issue. It is not something where we can put our head in the sand and pretend it is not happening. This is a new type of drug, it is a dangerous drug.

We have begun to take action. We have to take action on both the State and Federal level and we are making progress on a few fronts. I introduced a bill which would add 2C-E, the drug that killed the young man in my State, and similar drugs to a list of banned substances so they will be treated in the same manner as other banned drugs that they mimic, such as heroin.

I am also cosponsor of the bill Senator GRASSLEY referenced and also Senator SCHUMER has another bill to ban other types of synthetic drugs. Basically one bans the bath salts, one is focused on synthetic marijuana, and my bill is on the synthetic hallucinogens. All three of these bills passed the Judiciary Committee in July and one has already passed the House with a very strong vote.

Unfortunately, as Senator GRASSLEY also mentioned, a hold has been placed on all three of the Senate bills by one Senator. That is extremely unfortunate. These drugs can kill, and if we do not take action they are going to become more and more prevalent and put more and more people at risk. We cannot wait around and let these important bills languish in procedural gridlock, especially because of one Senator.

We are going to keep fighting here in the Senate until those laws get passed. We have seen in Minnesota, with the tragic story of Trevor Robinson, what these drugs can do and I for one do not want to see it happen again, not in my State, not anywhere in the country. I understand the Senator who is holding these bills has genuine and philosophical opposition and he deserves to be heard on his objections. My suggestion is that we come to an agreement so we can have a period of debate on these bills, a simple period of debate. This should not be a week-long debate. We can take the floor and speak to this issue and he can speak as long as he likes. We are not asking him to change his position. We want him to be heard but we simply want to have a period of debate and then a vote. That is what the Senate should be about.

Luckily, the Drug Enforcement Administration is taking its own action and has temporarily banned some synthetic drugs, but most of the substances in these bills have not been banned, including all of the substances in my bill. On the State level, roughly 40 States have banned some synthetic drugs, including Minnesota, where a major law regarding synthetic drugs took effect in July. But that means that some States have not banned any of these drugs yet and some have banned only certain types, so people can go to other States to buy them legally or buy them on the Internet. That is one of the reasons we need this Federal law.

Also, local law enforcement needs a strong ally in the Federal authorities as they try to turn the tide against synthetic drugs. Sadly, many of these instances I have seen in our State with

synthetic drugs involve more rural communities—towns that may not have the ability to call in a bunch of lab technicians and experts to be able to testify about what type of synthetic drug it is. That is why, for the sake of that law community, it is important we get it on that Federal list and we also make it very clear it is banned. Passing a Federal law will help create a partnership and will send a strong message that we need to eradicate these substances.

I do think we have made progress by raising awareness of this issue, which will lead to better education efforts, more vigilance by parents, and more attention by law enforcement. Now that the DEA has become more familiar with these substances, it will be better equipped to combat the problem. But the fact remains that the most important thing we can do on the Federal level is to pass these three bills that have already been approved unanimously by the Judiciary Committee. These bills won't solve the problem overnight, but they are the first step we need to take, and we need to do it now. Before we lose more kids, before these drugs spread any further, let's pass these bills. As I mentioned, it is estimated that one in nine high school seniors has tried synthetic marijuana. I don't want to wake up a year from now and read that it has increased to one in seven or one in five. Let's have a debate. Let's hear what the objections are, and then let's pass these bills. I really think we can save lives. While there is still time to catch up, we should be doing everything we can to address these problems.

I thank my colleagues, Senator GRASSLEY, the ranking Republican Senator from Iowa on the Judiciary Committee, who has already spoken, and Senator CHUCK SCHUMER from New York, who is a senior member of the Judiciary Committee. We are doing this as a team. We think it is very important that you, Mr. President, and the rest of the Senate have the opportunity to vote on these bills and have the opportunity to debate them. We hope we can achieve this goal procedurally so we can move forward in the way we are supposed to.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, today I rise to join my colleagues, Senator KLOBUCHAR and Senator GRASSLEY, to discuss an epidemic overtaking our country: synthetic drugs. I wish to compliment both of my colleagues. Each of us has been working on this issue in different ways, and we combined our three approaches into one piece of legislation that will go a long way toward helping to keep our kids away from drugs they should not have.

Synthetic drugs are an epidemic overtaking our country. They are also known as bath salts or, in the case of manmade marijuana, spice or incense. They are given innocent names, but they are deadly. Synthetic drugs are not sold on street corners by slingers who keep stashes hidden in alleys. Instead, these drugs can be found in local corner stores across the country. They are as easy to buy as a lollipop or a carton of milk, but they are much more dangerous.

No wonder emergency rooms and poison control centers have seen an enormous rise in patients who have taken these drugs and must seek help. The numbers are nothing short of eye-popping. Poison control centers reported 13 calls concerning these products in 2009, over 1,000 calls in 2010, and over 6,500 in 2011—from 13 calls to over 6,500 calls in 2 years. For every call they get, there are many people taking these drugs with no call at all. One survey, in fact, indicates that one in nine high school seniors used synthetic drugs in the past year. That is a frightening, astounding, and devastating number.

The Senate has before it a rare opportunity to do something simple and right that will actually go a very long way to fixing this crisis. We have three bills—Senator KLOBUCHAR's, my colleague from Minnesota, Senator GRASSLEY's, my colleague from Iowa, and mine—that would place the chemical components that make up these substances directly on schedule I of the Controlled Substances Act without waiting for the DEA to go through its yearlong listing process. Our communities desperately need us to make these drug compounds illegal once and for all. The DEA wants us to go ahead and make them illegal, and so does the FDA. There is no legitimate or commercial use for these compounds.

Our bills passed out of the Judiciary Committee unanimously and with no opposition. The House passed its version of our bills with little opposition. All we have to do now is put them on the floor and have a vote or simply pass them unanimously. But one of my colleagues has put a hold on these bills—just one. That is fine. I am in favor of protecting my colleague's rights, as they are my rights and Senator KLOBUCHAR's and Senator GRASSLEY's rights. But one Senator should not be able to prevent a vote on something that 99 percent of Americans want that directly affects their health and safety and the health and safety of their children. So I have a suggestion. Why can't we at least put these bills on the floor, and our colleague can air his opposition and see if he can win people over to his point of view? This really should not take more than an hour or two of our business.

Law enforcement and health professionals are begging for this bill. I know for a fact that parents and families in my State are begging for this to become law. A lot of us have worked hard on this issue because it is of critical importance to our communities and States.

Before I go any further, I again want to compliment and commend my colleagues, Senators KLOBUCHAR and GRASSLEY, as well as Senator FEINSTEIN, who is not here with us this afternoon, for their excellent leadership on banning these so-called designer drugs.

On Monday I was in Rochester, NY, to discuss Senator GRASSLEY's synthetic marijuana bill with local law enforcement and emergency room doctors. I heard horrific stories of patients who smoked synthetic marijuana and ended up crazed in the emergency room. Everyone I met with urged me to help ban these substances as soon as possible.

My own bill, the Combating Dangerous Synthetic Stimulants Act, bans two more of these drugs, mephedrone and methylenedioxypyrovalerone—fortunately, it is regularly known as MDPV—and they are commonly sold as bath salts. By calling them bath salts, manufacturers are trying to deliberately mislead people into thinking they are an everyday product. It is despicable when young kids—14, 15, 16 years old—try bath salts and they think it is harmless. These dangerous drugs are sold in convenience stores and smoke shops for as little as $14 to $40. And what are their names? Tranquility, Zoom, White Lightning, and Hurricane Charlie. These so-called bath salts or plant foods are nothing more than deadly narcotics, and they are being sold cheaply to all comers with no questions asked at store counters around the country. How is it possible that such deadly drugs are legal? Because by marketing them as bath salts, which aren't for human consumption, they aren't regulated. These bath salts have much the same effects, according to users, as cocaine or ecstasy, but they are preferred because they are cheaper and more readily accessible. In fact, according to court papers obtained by the Staten Island Advance, one of our fine local papers in New York, a seller in Brooklyn boasted to a Federal agent that the bath salts would deliver a better high than cocaine.

This ease of access does not, however, translate into their safe use. A recent New York Times article reported that an individual high on bath salts had climbed a roadside flagpole and jumped into traffic, broken into a monastery and stabbed a priest, and scratched herself to pieces because something was under her skin.

One of these drugs, Cloud 9, is so easily accessible it is sold on amazon.com. A person can go on amazon.com and buy this horrible stuff. How much? Sixteen dollars, plus shipping. It is accessible to anybody. Can my colleagues guess what item most customers buy

with this specific bath salt? Is it relaxing candles or lotion? Is it soap? No. The item customers most buy with this bath salt is Click N Smoke all In One Vaporizer With Wind Proof Torch Lighter. That is the name of the product. One does not need much of an imagination to believe that the purchasers of Cloud 9 are smoking these drugs and not adding them to a relaxing bath.

These drugs are the worst kind. Not only do they cause people to perform horrible actions, but they also give the impression that they are legal, that they are innocuous. Make no mistake that these drugs can and will cause harm to their users. At least 30 States, including my home State of New York, have recognized these drugs as harmful. They have banned bath salts at the State level. But only the DEA—the Drug Enforcement Agency—and the resources that are behind it can keep these drugs from coming into our country, from crossing State lines, and from morphing time and again to evade State bans. That is why we need these bills.

The DEA temporarily banned two of these substances in November. However, the clock is now ticking until this temporary ban ends. FDA and HHS must complete a complicated checklist in the remaining 7 months to prevent these drugs from returning to the corner store.

We must provide the DEA with a permanent ban before the time runs out. This will provide them with the necessary tools to address these legal drugs on a national stage. The DEA has the ability to spearhead multi-State and international investigations to prevent the manufacture and sale of bath salts.

These drugs are deadly and dangerous. Yet they are easier to buy than cigarettes in many States. Parents should not worry that each time their child goes into a convenience store or gas station, he or she can buy a deadly drug.

This bill has broad bipartisan support. We cannot wait for another parent to lose a child because of the inaction of the Senate. I look forward to working with my colleagues to pass the legislation. Once again, I implore my colleague—the single Senator who is holding up this bill—I hope he will not agree to set aside his differences, which come from a deep Libertarian ideological perspective that is different than most Americans have, but agree not to block them but to debate them and let them come up for a vote.

I thank the Chair.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PORTMAN. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. PORTMAN. As the Presiding Officer knows, this week the President sent his budget to Congress. This happens every year. The budget is a document that determines what the spending will be and what the revenues will be not just for the next fiscal year but for a 10-year period. So it is a document about what the direction of our country ought to be. It is a vision for the country, if you will.

It is being sent to the Congress at a time when we face extraordinary fiscal challenges. We have a record debt of over $15 trillion. We have deficits that have been over $1 trillion a year for the last several years, and it looks as though this year, once again, it will be well over $1 trillion.

In comparison to previous years, we have a debt that is now as large as our entire economy, which is larger than at any time since World War II. In fact, as a country, we are spending more money at the Federal level than we ever have before—as a percent of GDP, more than we ever have since World War II. So these are times when we have a true fiscal crisis at our doorstep and we need to handle it.

We are borrowing over 35 cents of every $1 we spend at the Federal level. In that context, I have to say I am very disappointed in the budget proposal that was sent to us because it is simply not up to the challenges we face. It taxes too much, it borrows too much, and it spends too much. Unfortunately, it adds another $11 trillion to the national debt over this 10-year period—again, a debt that already tops 100 percent of our country's economy. It does nothing to change the fact that Social Security and Medicare are in trouble—very important programs, of course, but by not addressing them in this budget document it means what everybody knows, which is that unless we do something that will head toward solvency, this will continue to be the case.

Remarkably, I thought, the President proposes another $350 billion in a so-called stimulus bill within this budget and pays for it either in red ink, with more borrowing, or by raising taxes. It actually raises taxes by nearly $2 trillion over this 10-year period. This is despite the fact the Congressional Budget Office has told us that by raising taxes, we are going to hurt the economy. In fact, it would result in higher unemployment next year than this year.

We all know the long-term driver of these deficits is entitlement spending. These important programs, Social Security, Medicare, and Medicaid, along with interest on the debt, are called the mandatory spending part of the budget. That is now a bigger and bigger part of the budget and the fastest growing part of the budget. It is 64 percent of the budget this year.

Under what the President has proposed, for the next 10 years, that mandatory spending—which means it is not subject to annual appropriations by Congress; again, important programs but not on a sustainable path—this mandatory spending will grow from 64 percent of the budget—where it is today, which has grown and grown over the years—to 78 percent of the budget in 10 years, under the budget proposal the President has put forward.

Republicans, Democrats, Independents alike, we know this is not sustainable. It is not sustainable and, unfortunately, it is going to hurt these programs in a way that is going to make it very difficult for our seniors and others who rely on them.

Overall, the President's promise of deficit reduction also does not look like it works. The budget claims $5.3 trillion in deficit reduction over the next decade. However, if we look at it, that $5.3 trillion does not come from spending cuts. Looking at a budget table, table 3—and I ask folks at home to take a look at this—99.9 percent of that $5.3 trillion in so-called deficit reduction does not come from spending cuts, it comes from tax increases—almost $2 trillion—a savings that is considered to be a gimmick of saying we are not going to spend as much in Iraq and Afghanistan. Everybody knows we are not going to spend as much there. Yet they take credit for that. Already enacted spending caps—remember, the discretionary spending caps were put in place, the so-called sequestration or across-the-board cuts, they take credit for those which have already been enacted and then, finally, the net interest savings from all those policies, which is about $800 billion, they say.

So again, almost all that so-called deficit reduction over the next decade comes not from spending cuts but, in fact, from either gimmicks, tax increases or things Congress has already done. That leaves very little—about $4 billion out of the $5.3 trillion—that is truly spending reductions.

By the way, on top of that, in the so-called baseline that the President bases his numbers off of—in other words, we have to determine what would the spending otherwise be—in that baseline, there is another $479 billion in new spending on Pell grants, the Medicare doc fix, and so on.

So the spending savings completely vanish when we put all that together. That is not the kind of budget we need right now.

Last year, the President submitted a budget that I thought was a good political document, also, but did not address our budget problems, and we took it to the floor of this Senate for a vote. In the Senate, last year, the President's budget was voted on by Republicans and Democrats, and it lost by a vote of 97 to 0.

I do not know how this budget would do if it came to the floor, but I am not sure it would fare much better because, frankly, when we look at this objectively, it is hard to say it addresses the very real problems we face. These are problems that relate to our spending and relate to the fact that we have these big deficits and debt, but also it relates to what is going on at kitchen tables all over America, which is people are having a harder time finding work, keeping jobs, making ends meet.

The economy is tough in my own State of Ohio. We not only have high unemployment, but we have record numbers of weeks where people have been on unemployment—approximately 40 weeks now. We have a lot of people who have given up looking for work altogether. Unless we get this budget deficit and debt under control and add more predictability and certainty to our economy and to what is going to happen with these huge deficits and debt that seem to be taking us toward what is happening in Greece, Italy or Spain—unless we do that, we are not going to be able to turn this economy around and give people the kind of confidence they are looking for to be able to make investments and move our country forward.

There are some other folks who are with me in the Chamber today. I would like to ask them if they would not mind talking about their budget perspective, what they see in this budget, the concerns they might have, and the ideas we have to try to improve our fiscal situation, therefore, our economy.

I see the ranking member of the Budget Committee is here.

I say to Senator SESSIONS, I know he wants to speak briefly on this issue.

Mr. SESSIONS. Mr. President, I thank Senator PORTMAN for his comments and for his leadership on the Budget Committee. We have three fabulous new members on the Budget Committee in Senator TOOMEY, Senator PORTMAN, and Senator RON JOHNSON, who are with us and will share their perspectives as new members on the Budget Committee.

At a time of fiscal crisis, as Senator PORTMAN has described, it is very important the leadership of America speak honestly to the American people about the challenges we face and how we plan to go about fixing them. That is right. That is fair. That is just. It is wrong, it is unfair, and unjust to spin plans, to misrepresent the impact of policies in a way that confuses the American people and our colleagues in Washington about what is going on.

So our colleagues who are here understand the numbers. They are going to make some very good points. I will just say, as a member of the committee and the ranking Republican, I am disappointed the budget does virtually nothing to change the debt trajectory we are on from the agreement we had last year and, in the course of it it raises taxes considerably and raises spending considerably, although the Budget Director was so reluctant yesterday to acknowledge it raises spending. But it does raise spending in any fair and objective analysis of the situation we are in today with the current trajectory in the Budget Control Act we agreed to last year.

So we are at a crisis, and we need to have leadership that looks the American people in the eye and tells them of the crisis we are facing, the difficult challenges, and lays out a plan on how we can fix it. We can fix it. If we put ourselves on a sound path, we will have more growth and prosperity than a lot of people predict.

I thank Senator PORTMAN for the opportunity to share these few moments and for the contribution he and our other colleagues are making to this important national debate.

Mr. PORTMAN. Mr. President, I thank the Senator for his leadership on the Budget Committee.

I see we have also been joined by one of our new Members, a freshman Member, who comes from the business side of things. He ran a manufacturing company, so he has an interesting perspective on Federal budgeting. I love to ask folks who are in business: Could you see doing business where you were borrowing 35 cents of every $1 you spent? The answer is: I wouldn't stay in business very long.

With that, I would like to hear from Senator JOHNSON of Wisconsin.

Mr. JOHNSON of Wisconsin. Mr. President, I thank Senator PORTMAN. Again, I so value his experience. Being the head of OMB himself, he understands these numbers.

What I have been trying to do over the last couple days is, I have been trying to figure out where is this $4 trillion worth of deficit reduction.

I have a chart on the debt in the Chamber. I have shown this chart in the past. I like this—I do not like it, but I like this depiction of the debt. It goes back to 1987, when our Federal debt was $2.3 trillion. It took us 200 years to incur that much debt, and we just entered an agreement—I did not vote for it, but we entered an agreement to increase the debt ceiling by $2.1 trillion, and we will blow through that in about 2 years.

But if we take a look at the debt President Obama in his latest budget is projecting 10 years into the future, it is $25.9 trillion. In last year's budget, it was about $26.3 trillion. Again, I am trying to do the math. If we reduce the deficit by $4 trillion, one would think that final debt figure would also be reduced, and it simply is not.

I realize the President is talking about a balanced approach. But you know as well as I do we have a spending problem, and that is what the next chart is trying to portray.

If we take a look at 10-year spending, in the 1990s, our Federal Government spent $16 trillion in total. In the last decade, we spent $28 trillion. In President Obama's budget for last year, he was projecting spending over 10 years of $46 trillion. In his new budget—just 1 year further into the future—he is projecting $47 trillion over 10 years.

Again, I do not see where there is $4 trillion worth of deficit reduction. I am an accountant. I am going to continue to look through the budget. I am afraid I am not going to truly come up with it.

I think what is very disappointing about President Obama's budget is that he simply is not grappling with what we all realize. I think everybody in Washington realizes what is driving our debts and deficit long term is Social Security and Medicare spending.

Just a quick little chart in terms of where we are in terms of Social Security. In 2010, we went cash negative, which means the amount of the payroll is not covering the benefits—by $51 billion in 2010, $46 billion last year. By the year 2035, we will accumulate $6 trillion in deficit spending in Social Security alone, and the President's budget is silent on Social Security. The President's budget is silent on Medicare.

He has had 4 years. Why doesn't he propose something? The only thing he is proposing is a tax on millionaires. He is asking Congress to hop on board and let's pass corporate tax reform. Why doesn't he propose it? There is actually a growing consensus about progrowth tax reform.

I want to agree with this President on something to enact something. But he needs to lead, and he is not leading on these issues.

I want to finish my little part by talking about those millionaires on whom President Obama wants to raise taxes.

I have been doing an awful lot of telephone townhall meetings. Last week, we had a very interesting call. After a couple of my constituents from Wisconsin asked me why I would not support a millionaires' tax, we had a call from an elderly woman, and I could tell she was afraid. She was scared. She said: Senator JOHNSON, I am so concerned about what is going to happen to our taxes. My husband and I have been building a business all our lives. All our assets are wrapped up in that business, and now my husband has been sick for 2 years. He has not been able to work in the business. I have been trying to make a go of it, and now we are going to have to sell the business. In maybe 1 year, when we sell this business, I might report one million dollars' worth of income, and I am so concerned: Am I going to be paying that 15-percent tax on my retirement fund, which is my business, or am I going to be paying a 30-percent tax?

The fact is, that is whom this President wants to punish—people such as that woman in Wisconsin who has her entire retirement wrapped up in her business, and she is going to sell it. That is on whom President Obama wants to double the tax.

Again, I think that puts a face on the type of people President Obama wants to punish. I think that is a tragedy. I

would like to see the President lead on the debt and deficit issue far better than he has.

Mr. PORTMAN. Mr. President, I thank Senator JOHNSON for his perspective, and it is very helpful.

We are now going to hear from another colleague who also is a new Member of the Senate but has a lot of experience in what makes the economy work and has been promoting progrowth tax reform and progrowth regulatory relief and other things to actually move the economy to generate more revenue in the right way, which is through growth, PAT TOOMEY from Pennsylvania.

Mr. TOOMEY. Mr. President, I thank Senator PORTMAN for organizing this colloquy and Senator JOHNSON for his contribution.

Let me start by making this point: It seems to me the two top priorities the budget—and most of what we do—ought to have are, No. 1, policies that will help encourage strong economic growth, a recovery that we need and the job creation that would come with it—that is No. 1—and No. 2, putting our Federal Government on a sustainable path because we are not on a sustainable fiscal path now, and if we do not get on a sustainable path soon, we are inviting a crisis. We are inviting a disaster.

It is my view that the President's budget fails badly on both fronts. On the economic front, there are a number of areas. First and foremost is a budget that proposes a growing budget deficit. The President who promised us in his first term he would cut the deficit in half, in fact, is proposing in fiscal year 2012—this year—a deficit that is bigger than last year and almost as big as the alltime record high—nowhere near cutting these deficits in half. Huge deficits themselves have a chilling effect on economic growth because they discourage investment.

Everybody knows when we are racking up massive amounts of debt, unprecedented amounts of debt—as we are doing right now—there is a huge threat that the result will be either dramatic inflation or much higher taxes or both. Given that threat, businesses and entrepreneurs, understandably, are reluctant to take a risk, to make an investment, to grow a business, to hire workers. So that is point No. 1.

Point No. 2 that I would like to make is a little bit more technical and very specific; that is, the President's idea that we ought to tax dividend income, which is to say investment in business, at ordinary income rates instead of at the current 15-percent rate. I just want to illustrate why I think that is a particularly bad idea and why it will hurt our economy and weaken our ability to create jobs.

This little chart demonstrates what this means is, what the President is proposing is effectively a 63-percent tax on investment in a business. The reason I say that is as follows: If you can imagine, let's say you have saved some money and you want to invest in a business so that business can grow and hire workers. How will these taxes be paid?

Right now, we have just about the highest corporate income tax rate in the world. So if you make an investment in a business and that business makes a profit, the first thing that company has to do is pay $35 of every $100 it makes. Let's assume the company makes $100. At the 35-percent top income tax rate that the company pays, $35 is taken, goes to the government. So the aftertax income for that business is $65. That is what the owners of the business get, right? Not quite.

If the dividend is then paid to the owners of the business, the President wants that to be taxed now at the ordinary income tax rate. By the way, he wants that rate to go from the current rate of 35 percent up to 43.4 percent. A top marginal income tax rate of 39.6 percent, plus the 3.8 percent from the health care bill that was passed, brings the top marginal income tax rate to 43 percent.

I know this gets a little bit confusing, but at the end of the day, it is not that complicated. The $65 that is remaining after the corporation pays its income tax—if that gets paid to the investor—that now, under the President's plan, would be subject to a 43-percent further tax.

That is another $28 that gets taken from that initial $100 of income, leaving the investor with $37 out of the $100 this business makes. So the President's plan is, if you want to invest in a business to help grow this economy and create jobs, the business—your activity—will be subject to having almost two-thirds of the income taken and you are left with about one-third.

What is the net effect? It is a huge disincentive to invest, to grow a business, to take a risk. Most of the rest of the world does not have tax rates this high, does not have a corporate tax rate this high, and therefore it is a further incentive for capital to move elsewhere.

I think we ought to pursue policies that encourage maximum economic growth, not policies that absolutely discourage savings and investment and the growth that comes with it.

If Senator PORTMAN tells me I have a couple of other minutes, I will make one more point; that is, to switch to the sustainable fiscal profile which we are not on now.

The President, to his credit, has put his finger on precisely what is the long-term problem we face. He has described it as the mandatory health care spending, the entitlement programs, as a general matter. He is exactly right. When we look at his budget, it is very revealing.

If we take just the following categories—Medicare, Social Security, Medicaid, and interest on our debt, just those items—and look at what the President has proposed for those items over the next 10 years, it is an average annual increase of almost 8 percent—7.8 percent to be precise. But he is only proposing that the economy is going to be able to grow by about 5 percent.

Frankly, that is optimistic. So what happens if we have huge government programs growing faster than the economy each and every year for as far as the eye can see? That is the definition of unsustainable because these programs consume ever more of the budget and ever more of the economy until something has to collapse.

This is why I am so disappointed the President has not so much as suggested an idea for how we might reform the long-term, totally unsustainable path they are on. Most of us—Republicans in this body and in the other body—believe we need to make some changes for future retirees. We are not talking about changing the rules for people who are currently retired or about to retire but people my age and younger and my kids. When are we going to acknowledge that we have to fix this so these programs can survive for the next generation?

If we refuse, if we continue to go on this path, we are going to face the kind of financial crisis they are facing in Europe. We have a limited window of opportunity to solve this. It is not too late for us to avoid the fate of our friends on the other side of the Atlantic. But I would suggest we do not have time to lose.

I think the President has missed the big opportunity to provide some leadership. I hope we will make up for that in this body.

With that, I would be happy to yield back to my colleague from Ohio.

Mr. PORTMAN. Mr. President, I thank Senator TOOMEY. I appreciate his focusing on the progrowth elements because, as I said at the outset, a budget is an opportunity to set the Nation on a 10-year course, both on the spending side—how much should the government spend—but also on the revenue side. That means we are getting into how to grow the economy because the right tax reform will generate more growth. That growth will generate more revenue in the right way.

Unfortunately, if we look at the proposal the President has made, it does nothing to help improve our economic growth. In fact, when the dividend tax was moved down to 15 percent, it was done so because, as Senator TOOMEY has rightfully pointed out, it is a double tax. In other words, it has already been taxed once at the company level. So when we get a dividend paid, we should not have to pay a high tax on it again.

In fact, because of that double taxation, as he has indicated, there will be a tax—total tax of over 60 percent. By the way, in the President's budget, the dividend tax was increased from 15 percent to 39.6 percent for some taxpayers. Then, as Senator TOOMEY has said, we can add the surcharge that comes from the health care bill and get it up into the forties for the individual.

Most people did not expect that. It is an example where this budget actually went further in terms of trying to, again, tax people more and therefore have less growth than anyone expected. Most people thought it would go from 15 percent to 20 percent or 25 percent, but not all of the way to—almost tripling the tax on dividends.

So it is an example where, in this budget, there was an opportunity to lay out a pro-growth path that included tax reform. Instead, we are building on our current antiquated, inefficient tax system and just lopping more taxes on top, including taxes on capital gains and on dividends that will make it more difficult for us to have the kind of investment we need to get this economy moving again.

The President, when he ran for election in 2008, pledged to reform entitlements. Senator TOOMEY talked about the fact that he has continued to talk about that, the need for it. I certainly agree with that, as do, by the way, most of my colleagues in the Senate, Democrat and Republican alike.

The budget, of course, does nothing to help. In fact, it increases the cost significantly on entitlements, as Senator TOOMEY has said, an 8-percent increase on average for these important programs. But that puts them on an unsustainable footing when the economy will not be growing nearly that fast.

Instead of doing something to reform these programs, making them work better, the President is just continuing to pile on more entitlements. But in 2008 the President also said he was going to cut the deficit in half. At that time the deficit that first year of his administration was $1.4 trillion. He proposed to cut it in half over the 4-year term. So now we are in 2012, the final of his 4 years—fiscal year—and their estimate for the deficit this year—from the Office of Management and Budget, from the Congressional Budget Office—is that we will be over $1.3 trillion.

So it does not sound like he has cut the deficit in half. Some will say, well, it is less as a percent of our economy. That is true. Our economy has grown some. But it is still not close to cutting it in half. A lot of things happen during a Presidential term. But I would hope that the President, in putting forward a budget, would have put forward a serious effort to reduce the deficit significantly, to get this economy back on track and prepare for, again, this unsustainable growth in entitlements by truly reforming the programs to make them work better and to make them sustainable over time.

We still have the opportunity to do that in the Senate. It is an election year, but we still have 8 or 9 months until the election. We should get busy working together as Republicans and Democrats, not follow the President's budget because, unfortunately, it does not provide the guidance we need. But we need to follow what all of us know in our hearts has to be done, which is grow the economy through pro-growth, sensible approaches such as tax reform, regulatory relief, and using more of our own natural resources in this country. We can help grow the economy on the one hand and, therefore, create revenue.

Then, second, we ought to do everything we can to reform these programs to make them sustainable, to reduce annually appropriated spending in ways that are responsible—not just to our kids and grandkids, as important as that is, but to today's economy to ensure that we can, indeed, have a strong recovery that all of us hope for and begin to bring people back to the workforce, create jobs, get this economy moving again, and give people that dignity and self-respect that comes from work.

I am glad to have had the opportunity to talk about this budget.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORATION ACT

Mr. CORKER. Mr. President, I thank the Chair for his leadership. I am here today to appeal to this body. I think the Presiding Officer, I know myself, and a whole host of folks in this body have been concerned about where the country is going. I know many of us have talked about ways of reforming our Medicare system at some point, which I realize may not happen this year, and our Medicaid system, and to move our country to a place where it works fiscally for all Americans. We have talked about all kinds of things. Shoot, I think there have been over 50 or 60 Senators involved in trying to reach consensus on those issues.

Today, we are debating a highway bill. I know we have had a lot of great work that has taken place in EPW, a lot of great work in the Commerce Committee, in the Banking Committee, and in the Finance Committee. What we have done in this bill—and I so appreciate our leadership allowing us to look at this bill in this way—is to move to one portion of the bill and then adding other portions on to the bill. So I thank the leadership of the Senate for letting us look at the bill in this way.

I know there are provisions in the Finance component that are being worked out now before the Finance piece comes to the floor, and again I appreciate the people working on that. But it was my understanding—and I think I am right—that the major components of that Finance work were not supposed to change, yet here we are and what we are getting ready to do with this highway bill is pretty unbelievable.

All of us want to see infrastructure in this country built. I know the Senator from Maryland is a strong proponent of that and has lobbied heavily for that. I was the mayor of a city at a time when it seemed we had nothing but orange barrels, so I thought it was very important we had proper infrastructure.

But with all of the consensus that has developed in the Senate around trying to solve our big issues, here is what we are doing. And many people on the other side of the aisle—my friends—can remember the debate during health care. One of the things that many people on my side of the aisle argued was a problem with the health care bill was that we were going to use 6 years worth of cost and 10 years worth of revenue. That was one of the things that actually got a lot of people's attention and concerned people on both sides of the aisle. What we are doing with this bill is even more egregious. What we are doing with this highway bill is we have 2 years' worth of cost and 10 years of revenue.

Again, I know all of us want to see a highway bill put in place. I think most of us want to see a long-term highway bill put in place. But let me explain what is happening. The Senator from Maryland and I, every year or so, have to deal with something called SGR. It is the sustainability growth rate for Medicare. We put a formula in place back in 1997, but we haven't owned up to that. So what we do every year and a half or so is we kick the can further down the road and we create what is called a financial cliff at the end of it. Every time we deal with that, it gets more and more expensive.

I understand people here in the Senate don't want to support physicians across their States, so we keep kicking the can down the road and not finding a way for a long-term solution that all of us know needs to be in place. I personally understand how people are concerned with how we reform Medicare. It affects a lot of seniors in our States, and we want to make sure we do that in the right way.

What I don't understand is why on this highway bill, which has a trust set up—and by the way, it doesn't have the same type of constituency. I shouldn't be talking politics, but it doesn't. We deal with all of our Governors back home. But why on this highway bill are we creating exactly the same problem for our highway program that we have with SGR? What we are effectively doing, if we pass this bill in the way the Finance Committee has come up with paying for it, is we have created exactly the problem we have with SGR. I cannot imagine why anyone in this body wants to see us take one problem and transfer it to something else that so many of our Governors and people across our country depend upon.

So here we are, in a situation where we all know our fiscal situation is not

sustainable, we know we have to make changes—and I realize it is very unlikely those changes are going to happen this year—and yet we would go ahead and do what I think is unbelievably irresponsible, which is that we would go ahead and pass this highway bill where we are going to spend all the money in 2 years and pay for it over 10. So I am here to appeal to people on both sides of the aisle.

This is a bipartisan issue. It is a bipartisan bill. This isn't one of those things where one side of the aisle is trying to pass something over the objections of the other side of the aisle. But I want to appeal to the conscience of the people in this body, to the moral high ground that sometimes this body can exhibit in representing the American people, that we not do the same kind of thing we have done with SGR—the doc fix and Medicare—to the highway bill. We ought to spend the amount of money we have coming in. If we don't think that is enough money to pay for it annually, we ought to change the way the revenue structure is coming into the program.

There is no way in the world households in Maryland or Tennessee or any other place would possibly consider doing this. We know fiscally this doesn't work. Financially, it doesn't work. So I am hopeful enough people in this body will put aside expediency, put aside making everybody feel good back home in the short term, and not create a crisis.

By the way, at the end of 2013, if we pass this bill as it is laid out now by the Finance Committee—even with the tweak they are looking at on IRAs—what we are looking at doing is putting in place a $10 billion cliff.

Again, I think it is unbelievably irresponsible that we would transfer the same woes we have in our entitlement programs to the highway program. We ought to either spend the amount of money that is coming in annually and reduce the amount of outflows or we ought to do something different with the gas tax or some other revenue stream. But we should not put our heads in the sand and say, even though we know this doesn't work, it is an election year and we want to get a highway bill behind us. We know it is going to be bad news for our country down the road, but it is good news for us today. To me, that is irresponsible. So I am appealing to both sides of the aisle. I am appealing to all those people who have been to numerous meetings trying to figure out a bipartisan way—not as Republicans or Democrats, but in a bipartisan way—we can deal with our country's financial problems in an appropriate way, a pragmatic way, that doesn't jerk the rug out but gets us where we need to go over the next 10 years. I am appealing to all those people who act very sincerely in these meetings and speak with passion about where our country is going. I am appealing to their goodwill. I am appealing to their conscience. I am suggesting that we take the moral high ground and not let a bill pass like this—a bill that uses the same budget gimmickry we have used for so many years and that has put us in the place we are now in.

I hope, in a bipartisan way, we will say, no, stop. Let's do this in the appropriate way that reflects the trust the American people have placed in us to handle their finances, their tax money, and this country.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid (for Johnson (SD)/Shelby) amendment No. 1515, of a perfecting nature.

AMENDMENT NO. 1515 WITHDRAWN

Mr. REID. I withdraw the pending amendment No. 1515.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

AMENDMENT NO. 1633

Mr. REID. I have a first-degree amendment, which is a perfecting amendment, at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1633.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk reads as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 1633 to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes:

Harry Reid, John D. Rockefeller IV, Kay R. Hagan, Patrick J. Leahy, Patty Murray, Sheldon Whitehouse, Richard Blumenthal, Herb Kohl, Ben Nelson, Jeff Bingaman, Jeanne Shaheen, Barbara A. Mikulski, Jack Reed, Max Baucus, Frank R. Lautenberg, Robert Menendez, Maria Cantwell.

Mr. REID. I ask that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1634 TO AMENDMENT NO. 1633

Mr. REID. Mr. President, I now have a second-degree amendment which is at the desk that I ask to be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1634 to amendment No. 1633.

The amendment is as follows:

At the end, add the following:

(e) EFFECTIVE DATE.—This division shall become effective 4 days after enactment.

MOTION TO RECOMMIT WITH AMENDMENT NO. 1635

Mr. REID. Mr. President, I have a motion to recommit the bill with instructions at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill (S. 1813) to the Committee on Environment and Public Works with instructions to report back forthwith with an amendment No. 1635.

The amendment is as follows:

At the end, add the following new section:

SEC. ____.

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1636

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1636 to the instructions on the motion to recommit.

Mr. REID. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike ''3 days'' and insert ''2 days''.

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1637 TO AMENDMENT NO. 1636

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1637 to amendment No. 1636.

Mr. REID. Mr. President, I ask unanimous consent that further reading be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike ''2 days'' and insert ''1 day''.

EXECUTIVE SESSION

NOMINATION OF JESSE M. FURMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 366.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read the nomination of Jesse M. Furman, of New York, to be United States District Judge for the Southern District of New York.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Is there objection?

Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion which is at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Jesse M. Furman, of New York, to be United States District Judge for the Southern District of New York:

Harry Reid, Patrick J. Leahy, Robert P. Casey Jr., Richard J. Durbin, Richard Blumenthal, Jeff Bingaman, Christopher A. Coons, Sheldon Whitehouse, Al Franken, Herb Kohl, Dianne Feinstein, Tom Udall, Mark Begich, Kent Conrad, Amy Klobuchar, Charles E. Schumer, Kirsten E. Gillibrand, Joseph I. Lieberman.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each, until 6:15 this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. REID. Mr. President, has the Chair announced that we are resuming legislative session?

The PRESIDING OFFICER. The Senate will now resume legislative session.

SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, I was going to ask a number of consent requests which I thought were important to present to the Senate, important issues that have not been resolved. I decided not to do that.

We have made some progress in working toward an end of the issues that are preventing us from moving forward on this bill. I hope we can continue to do that in the next 24 hours. There is certainly enough importance in this legislation to do just that. We are talking about more than 2 million jobs with this legislation, so I hope my friends, the Republicans, will figure out a way to help us move forward on this legislation.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to follow on to the comments made by the majority leader about the importance of the bill we are trying desperately to move forward here today and we tried to move forward yesterday. We had a good vote when we came back here on Monday night. Eighty-five of us said, Let's go do this highway bill. This is a key and important matter for the country.

In the 1950s, it was President Dwight Eisenhower, a Republican President, who said, We need an interstate highway system. We cannot move people, we cannot move commerce, we cannot be a great power. We have a great military, but we don't have a good road system. He moved forward not only with that but with the very first aid to schools at that time; because before he made the point that we needed to have a Federal program to help our schools, it was strictly a State matter. So we owe President Eisenhower a lot. And I will tell you, the way we are acting around here, if he were watching, he would be shocked. The first amendment to a highway bill is birth control. The second amendment the Republicans want after birth control is to talk about Egypt. It goes on and on, controversial drilling off our coast, and all of this list they came up with.

It is very clear we have a bipartisan bill. It will make sure that we build our roads, we fix our roads, we fix our freeways, we make sure our bridges are safe. Right now, we have a horrible situation with tens of thousands of bridges that are unsafe. Do we need to have another tragedy before we pass this highway bill?

Every committee has done its work, including the Finance Committee, to come up with the funds to fill the Highway Trust Fund so we can keep going at current levels plus inflation, and we have leveraged one program called TIFIA which leverages 30 times. So by putting $1 billion into the TIFIA Program—and you know about it because you are a proud member of the EPW Committee—by putting $1 billion into the TIFIA Program, it means $30 billion out there, because the States and the localities will apply for this funding, they will match this funding, the private sector will match it, and we will create up to 1 million more jobs in addition to the 1.8 million we are protecting with the rest of the programs.

We are talking about a real shot in the arm to our economy. I am proud that Senator INHOFE—who is the mirror opposite of me in most issues. We do not agree on most issues. We do agree on this, the need to have a class-A infrastructure. We agree on that. We think it is critical. Yet here we sit, minute after minute, hour after hour, day after day, because Republican Senators do not want us to move forward on this bill. You have to ask why. Why? We are willing to take these amendments. We are willing to work on several of them. We cannot do 100 unrelated amendments. Come to us with a list that makes sense. But do not tell the people in your State you are working to get a highway bill done because I am here to put in the RECORD that the fact is, you are not helping. You are hurting us. You are hurting the hundreds of thousands of construction workers who need these good-paying jobs. You are hurting the tens of thousands of businesses that need to get back to work making the cement, laying the pavement, fixing the bridges, building the houses.

It is very distressing. When I go home and people say: What is happening, well, they have to have a vote on birth control. It is hard to find the words except to say: What are you thinking when we have a bill that is so important?

My Republican friends stand here, minute after minute and hour after hour—they are not here now—all day criticizing President Obama, who has turned this economy around—no thanks to them. When he took over, 800,000 jobs a month—bleeding. There was a contraction in economic growth. It was way down in the final quarter of the Bush years. There were huge deficits he inherited from Bush. He's turned it around. He said we need to save the auto industry, and we did. A lot of our friends on the other side said: Oh, don't do it. They were wrong. The President was right. We are recovering. Month after month we are adding jobs, after loss after loss of jobs. We have turned it around.

But I will tell you that this bill is, as the chamber of commerce and the AFL–CIO agree, the No. 1 jobs bill we can do. There is not much we do

around here that can have an impact on 2.8 million jobs. I cannot think of anything that tops that. They are mostly private sector jobs. There are some jobs in the public sector in the transit areas, but they are mostly private sector, private business jobs.

So anyone who tells you they are for jobs and anyone who tells you they are for economic recovery, the first thing you should say is, Are you helping Senators BOXER and INHOFE in a bipartisan way to move the highway bill, because that is 2.8 million jobs. If they give you an answer like: Oh, sure, but we have to have a few important amendments first, you ask them what those amendments are. If they are honest with you, they will tell you birth control, a woman's right to choose, health care, offshore oil drilling.

They have one they want to offer that would hurt our people's health. It would allow dangerous arsenic and lead and other toxins to go into the air from boilers. They want to repeal a protective rule we have that will clean up the pollution from boilers, even though the biggest boiler manufacturers support the rule. Go figure. The last thing I hear people in my State tell me is, oh, I want more arsenic in my air and, oh, I would love to have more lead. I need more mercury.

Please. This is the 21st century. We have made so much progress on the environment. We are making progress on health care. We are making progress on infrastructure. Don't stop it all. Step back, let this bill go forward.

Senator REID has set up a vote, a first test vote after the vote to proceed. I know some people have some problems with a couple of the titles, and we are working on fixing that, but I hope we will get 60 votes to proceed. If we do not, we are going to try again. Believe me, we are going to try and try again because, as one Senator, I am not going to agree to do anything else until will we get this bill done, period. One thousand organizations are at work trying to push this bill forward, organizations from business, to labor, to government. We have the general contractors, the cement makers, the AFL–CIO and a number of unions, the chamber of commerce, the granite people, we have Portland Cement, and we have a group that represents America, AAA.

We have to do this bill. I will not, as one Senator, give up my right and go to anything else. That is how strongly I feel about it, and I do not believe I am being selfish. I think I am representing the people of this country who want to see a jobs bill pass, who want to see a bipartisan bill pass, who want to make sure our States do not suddenly start laying people off at a time when we are finally turning this economy around.

I guess I am laying down a marker here as one Senator from one State, albeit the largest State in the Union, 38 million people strong, with a high unemployment rate, traffic congestion. We take 40 percent of the goods through California that are being imported into our country. It goes on our roads, all throughout America. Do you think we need better roads? Oh, yes, we do. Do you know what happens when those trucks sit and stall on the 10 freeway? It is ugly, it is dirty, it is wasting money, it is wasting time, it is hurting people's lungs, and it cannot stand.

I lay down the marker today. I ask my friends to please come to the table. I am ready, willing, and able, as the chairman of the Environment and Public Works Committee. We will meet with you. We will listen to you. If you want to have a certain amendment offered and we can help you get it done and it makes sense, it is relevant, we will help.

But other than that, let me be clear, there are a few things we do around here that are bread and butter, basic. The highway bill that got started under Dwight Eisenhower is basic. You should hear what Ronald Reagan said about the importance of a highway bill, the importance of a transit bill. You should hear it. It is on the radio. People are taking out ads to talk about it. Bill Clinton is eloquent on the point. This is a bipartisan issue, and it will be voted on in this Senate. It will be voted on because I cannot in good faith as the chairman of this committee just give in and say: OK, we are done. We tried for 4 days, it did not happen.

But I hope everyone watching in America—if we have anyone watching—will understand that it is 3:20 on a workday. This Chamber is empty because people are playing games and maybe they don't want this economy to go forward. Maybe they don't want to see President Obama succeed. Maybe they don't care about jobs, for all their talk, because that is the only thing I can say.

When you have a bill on the floor that came out of a committee unanimously—it came out of two committees unanimously: Senator INHOFE and I agreed; Senators JOHNSON and SHELBY agreed—and then you have the Finance Committee reaching out to the Republicans—they worked together, and they had a tremendous vote, which I think was 17 to 6 with one voting present, for their title, and that is about 90 percent of this bill—and then you see nothing here going on because people want to offer amendments about birth control, it is beyond me.

I hope, as you see this floor quiet today, if it bothers you the way it bothers me, you will call the Capitol and leave a message for the leaders on both sides of the aisle and say: For the good of the people, put aside your differences and get this job done.

This is a bipartisan bill. This is not a Democratic bill. It is not a Republican bill. It is a bipartisan bill. Surely if the committees could set aside unbelievable differences, then we can do the same and get to work on this.

I am embarrassed—embarrassed for the people of this country. They are out there working and there is an empty Chamber here when we have the most important bill we could possibly have on the floor.

I am going to fight for this bill. I am going to fight hard. I am going to make the case. I am going to fight for the 2.8 million jobs it could produce. I am going to fight for the thousands of businesses that need this lift. I am going to fight for the people who need to have safe roads and safe routes to school so they do not have to worry. I am going to do it in the name of the people who never made it because they were on some unsafe road. Senator INHOFE talks about a mother and a child who went under a bridge in Oklahoma, and a big sheet of concrete fell down and she is gone. She died. I am going to do it in the name of all these things because this bill is about motherhood and apple pie.

There is no partisanship to this—none. Republicans use the roads and Democrats use the roads. Independents use the roads. We all use the roads. We want our children safe. We want our families safe. We want our roads usable. We do not want to be caught in congestion. Every part of the transportation system is addressed by the four committees that have come together on this bill.

As I leave the floor—and I do not see anybody else—I hope people will watch. In 5 or 10 minutes, if nobody is here, pick up your phone and call the leaders of Congress and tell them to get to work on the Transportation bill and don't offer ridiculously unrelated amendments. We do not have to do that. Come together and sit down together and make a path forward because right now there is no path forward. I do not see it. I do not see it. It is one of those things where people just say: I don't care; we are not going to this bill.

Everyone in America is going to know this is happening because I am going to tell everyone in America it is happening. I will not be listened to the first few times, but maybe by the 20th time somebody will notice what is happening here. We are in morning business, meaning we are just yakking, we are not doing any real work. But I will be back in a little while to give a report on the progress we are making—or lack of same.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COATS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. COATS. Madam President, I come to the floor today frustrated, as many of us are, that once again we are not able to address legislation in the way the Senate is designed to address

it, which is to debate, to discuss, to offer amendments, and to vote. Once again the majority leader has decided he didn't like some of the proposed amendments and, therefore, is trying to shut off all opportunity to provide amendments. We are allowed to come down and give our little speeches, but there is no debate, there is no back and forth, there is no record of where we stand on certain issues except for final passage. I think the American people want more than that. That is not why they sent us here.

This is my second time in the Senate, with a 12-year gap in between my terms, and a lot of people ask me what has changed since my first time here. I say one thing that has dramatically changed—and which didn't happen my first time in the Senate—is that we used to be able to come to the floor and essentially offer any amendment at any time to any bill. That is the difference between Senate procedure and the rules in the House of Representatives. We don't have a Rules Committee that dictates which amendments can be offered and which ones can't. This is supposed to be a body where we have an open discussion, where any Member can offer any amendment to any bill at any time. So in my first 10 years, that is what we did. It made for long nights, it made for long days, but we were performing the function our Founding Fathers designed for this body to fulfill.

Somehow it worked out. We went on record. Our yea was yea, and our nay was nay, and it was all there for the public to see. The amendments that were offered, the debate that took place, and the vote that was conducted were all there. Then we went home and explained why we voted yes or why we voted no. But the public had full transparency.

Today, and in this period of time—and I have just been here a year and a month in my second stint in the Senate—it is very seldom we have that opportunity.

Once again, on the highway bill, which affects every American in every State, we have finally gotten to the real thing. Our side has put up some amendments, and the majority has looked at them and said: No, we don't want our Members to have to vote on those, so we will use a procedure called ''filling the tree.''

Now, that doesn't mean anything to Americans—filling the tree. What am I talking about? There is a procedure in the Senate where we can only offer so many amendments to a particular bill before we are precluded from offering another. The majority leader of the Senate—whether Republican or Democrat—has the opportunity, if he or she wants to take it, to gain the floor and procedurally put us in a position where no amendments can be offered and then move to talking about it and to immediate debate.

That is not the way we should proceed. I was prepared to give this highway bill a real chance. I have some real problems with the bill that is before us. The House is passing legislation that has many things in it I like—some things I don't like—and we were all looking for an opportunity to try to address those particular concerns.

I have a particular concern with the bill that is brought before the Senate because this bill, for starters, goes into the general fund and beyond the sales tax for gasoline purchases fund.

Everybody thinks when they pull up to the pump and fill their car with gas, they know there is a Federal tax attached to the price we pay, but they know it goes into a tax fund specially designed to provide for construction and provide for return to the States so they can build the roads and repair the bridges and do things associated with transportation. That is why we pay that gas tax. That is supposed to be apportioned in a rational way back to the States so they can do what is needed for their State to provide the kind of transportation their State wants.

This bill not only uses all the money that is paid into that fund but adds an additional $12 billion of spending that is from the general fund. The pay-fors aren't legitimate. So, once again, we are in a situation where we are borrowing money, going into debt, increasing deficit spending and increasing the debt load we have in order to enhance the money we are going to send out to the States.

Many of us have said based on what we have seen and what has happened here in years that has driven us into a deficit which cannot be sustained and a debt which may never be repaid, we are simply not going to support legislation that spends more than we take in without being paid for. We can't keep doing this. Now we are in a situation where we have a bill before us that is needed because we need these funds to give to the States to build the roads and repair the bridges, but we are dipping into the general fund for an additional $12 billion.

Secondly, there is an inequitable treatment to States. I bring this chart to show how this affects various States. If we take what a State has paid into the fund and look at what a State receives back, we will see there is an inequity present. Part of the general fund money that is going into this might try to make up for some of that. But if we stay with the principle upon which highway funding has always been funded; that is, a State gets returned its proportionate share of what the taxpayers pay when they pull up to the pump in that State and fill their car with gas, there are some States that fall within a real deep deficit.

It starts with the State of Texas. Texas loses $1,113,000,000 that is paid in but doesn't come back to them under the formula. My home State of Indiana is third on the list. We lose $275 million because what we pay into the fund is not returned to us. These are all of the donor States. Donor States are those that pay in more than they receive back. They are pretty big States and have a real stake in this and would have had a real stake in this amendment. These States would have had an opportunity to vote for or against this amendment had I been allowed to offer it.

The States of Texas, Georgia $283 million, New Jersey, Florida, California, Ohio, Virginia, Michigan, Illinois, and on it goes. Members can take a look at this chart. This is the amount of money they lose because they are not getting their fair share back and they are the donor States. The money that is lost is sent to other States that are the donee States. So our taxpayers in Indiana are paying the equivalent of $283 million to other States.

We have been a State that has managed our fiscal situation very well and we have been very careful. We have this old-fashioned belief that we shouldn't spend more money than we take in, and we live by that principle in Indiana. We have been careful in how we have managed our money and how we have used the money that is sent to us that we paid into the gas tax fund. Yet we are penalized because we have managed our finances well, and Hoosier taxpayers end up sending money to States that haven't done as well.

The second problem is, this bill falls short because though we are no longer doing earmarks, it includes earmarks from over the past several years, and the total of those earmarks goes into the total average of spending for that particular State, and the formula then is based on the fact that the big earmarkers end up getting more money, while States such as Indiana that have not pursued those earmarks lose out because the average is based on the accumulative amount that is paid into the fund, including earmarks. Once again, a State that has been careful in terms of managing and spending its money ends up being penalized because we haven't pursued earmarks, which, fortunately, are no longer part of our method of doing business.

Indiana pays approximately 2.71 percent of the total Federal gas tax, and we would like to get 2.71 of that back. If we do get that back, it will have a significant effect. We have a second chart that talks about what is paid into the highway trust fund just for a few States that we listed, the apportionment under the bill that is before us and the amount that is below the fair share and I have read some of those. Again, Texas, Georgia, Indiana, New Jersey, and Florida being the top five States that are penalized for this.

I also had amendments I was going to add that would give States greater flexibility in terms of how they use the money they receive. We have all heard the stories about money being diverted to things that a State doesn't want because there is a formula attached to the legislation that says you have to

spend X percent of money on certain projects, such as bike paths and walking paths and other so-called enhancements. I am not against that. I use those. I jog on bike paths and appreciate some of those enhancements. But that ought to be a State decision in terms of how it allocates its money and not a Federal decision because a one-size-fits-all dictated by a particular piece of legislation simply does not take into account the individual needs of a particular State. Some States may want to say: Look, our roads are in such shape and our bridges need repaired. At least for this year or the next 2 years, we are going to divert the money into strictly construction and repair projects. Others might say: Well, we are in a little bit better shape this year and we can use some of this. That ought to be for the States to decide and not a piece of legislation coming out of this body.

Finally, another amendment I would have liked to offer, if not for the majority leader's refusal for an open-amendment process, is one that would have limited the scope of eligible transportation enhancement projects. We hear these reports every day about crumbling roads and unsafe bridges. Yet what we are doing in this bill is limiting how a State determines where it puts its funds. I think we ought to narrow that option, if not take it away.

To wrap up, let me just say I think it is very unfortunate that we have resorted to a system where if the other side—and I would say this to my leader if my party was in the majority. This is not how the Senate is supposed to operate. Someone from the other side who has an amendment we don't like, they ought to have the opportunity to offer that amendment and they ought to have the opportunity to debate that amendment and to require a vote on that amendment. Then we can vote yes or we can vote no and the public can judge us accordingly. But to simply shut it all down and not give anybody that opportunity I think is not the kind of procedure we want.

Finally, let me simply say this bill brought before us is a flawed bill. Without the process of amending it or the opportunity to amend, to fix what we think is wrong with it, puts us in a position where it is impossible to say we can vote for something such as this.

For the reasons I have articulated and for other reasons that will come out as we make these speeches on the floor but don't have a chance to offer amendments, I simply cannot support this bill as it is.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

RECOGNIZING JOHN HERSCHEL GLENN, JR.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 377, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 377) recognizing the 50th anniversary of the historic achievement of John Herschel Glenn, Jr., in becoming the first United States astronaut to orbit the Earth.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 377) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 377

Whereas John Herschel Glenn, Jr. was born on July 18, 1921, in Cambridge, Ohio to parents John and Clara Glenn;

Whereas John Glenn grew up in New Concord, Ohio with his childhood sweetheart and future wife, Annie Castor, 150 miles east of Dayton, Ohio, the birthplace of the Wright brothers, who first took humankind into flight;

Whereas John Glenn enlisted in the Naval Aviation Cadet program shortly after the December 7, 1941, attack on Pearl Harbor, Hawaii, and was commissioned as an officer in the United States Marine Corps in 1943;

Whereas John Glenn received many honors for his military service, including the Distinguished Flying Cross on 6 occasions, the Air Medal with 18 Clusters, the Asiatic-Pacific Campaign Medal, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the National Defense Service Medal, and the Korean Service Medal;

Whereas, with the onset of the Cold War, the United States and the free world feared the intentions of the Soviet Union in space;

Whereas President Dwight D. Eisenhower asked the National Aeronautics and Space Administration (referred to in this preamble as ''NASA'') to find the most talented, patriotic, and selfless test pilots to participate in Project Mercury, the first human spaceflight program in the United States;

Whereas John Glenn and fellow candidates for NASA's Astronaut Corps underwent pressure suit, acceleration, vibration, heat, loud noise, psychiatric, personality, motivation, and aptitude tests at the Aeromedical Laboratory at the Wright Air Development Center in Dayton, Ohio;

Whereas John Glenn, Malcolm S. Carpenter, L. Gordon Cooper, Jr., Virgil I. ''Gus'' Grissom, Walter M. Shirra, Jr., Alan B. Shepard, Jr., and Donald K. Slayton were selected from among hundreds of other patriotic candidates to be named the original ''Mercury Seven'' astronauts;

Whereas Project Mercury was charged with the unprecedented responsibility of competing with the strides that the Soviet Union was making in space exploration;

Whereas the United States public viewed John Glenn and the Mercury Seven astronauts as men on the front line of the war not only for space supremacy but also, in many minds, for the survival of the United States;

Whereas John Glenn accurately captured the significance of the time when he later wrote that ''the world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold'';

Whereas the Project Mercury astronauts trained for their manned space flight missions in the Multi-Axis Space Training Inertial Facility at NASA's Research Center in Cleveland, Ohio;

Whereas Alan Shepard was chosen to pilot the first manned Project Mercury mission on *Freedom 7* on May 5, 1961, which proved that the United States was capable of successfully launching a person into suborbital flight;

Whereas Virgil Grissom was chosen to pilot the second manned Project Mercury mission on *Liberty Bell 7* and became the second United States astronaut to achieve suborbital flight on July 21, 1961;

Whereas the Soviet Union had successfully launched the spacecrafts *Lunar 2* and *Lunar 3* in 1959 before successfully launching and returning to Earth Major Yuri Gagarin, who completed a 108-minute single orbit around the Earth in 1961;

Whereas John Glenn was selected from among the Project Mercury astronauts to command the first United States capsule to orbit the Earth;

Whereas John Glenn, with the help of his children Dave and Lyn, named the first United States space capsule to orbit the Earth *Friendship 7*, re-emphasizing the peaceful intentions of the United States space exploration program;

Whereas John Glenn trained vigorously, working through 70 simulated missions and reacting to nearly 200 simulated system failures, to prepare to orbit the Earth and successfully complete the first manned orbital mission for the United States;

Whereas the work that John Glenn conducted on the cockpit layout, instrument panel design, and spacecraft controls in the Mercury spacecraft enhanced the design of *Friendship 7* and the ability of an astronaut to control *Friendship 7*, which proved useful during the mission;

Whereas, at 9:47 a.m. Eastern Standard Time on February 20, 1962, the Atlas 109D rocket boosters ignited and John Glenn and *Friendship 7* commenced liftoff at NASA's Space Center in Cape Canaveral, Florida;

Whereas John Glenn, aboard *Friendship 7*, became the first United States astronaut to orbit the Earth, orbiting 3 times and observing 3 sunrises, 3 sunsets, and the wonder of the universe in only 4 hours and 56 minutes;

Whereas, when John Glenn learned that the heat shield on *Friendship 7* had possibly become loose in orbit, compromising the successful completion of the space mission, Glenn bravely managed the reentry procedures and proved that a person can safely and successfully complete a NASA mission;

Whereas John Glenn successfully completed reentry into Earth, splashing down in the Atlantic Ocean at 2:43 p.m. Eastern Standard Time, east of Grand Turk Island at 21 degrees, 25 minutes North latitude and 68 degrees, 36 minutes West longitude, and was recovered by the USS *Noa*;

Whereas, in the context of the Cold War, the success of the *Friendship 7* flight restored the standing of the United States as the leading country in the race to space against the Soviet Union;

Whereas the completion of the inaugural orbit of the Earth by John Glenn validated

NASA's manned space flight mission and secured the future missions of NASA's manned space capsules;

Whereas the people of the United States heralded John Glenn as the personification of heroism and dignity in an age of uncertainty and fear;

Whereas the press later described John Glenn as a man who embodied the noblest human qualities;

Whereas President John F. Kennedy echoed the belief held by John Glenn that the United States space program was not just a scientific journey but also a source of inspiration and pride, saying, ''our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men'';

Whereas John Glenn is a patriot and space pioneer who encouraged the people of the United States to rightfully view NASA as an embodiment of the persistent quest of the people of the United States to expand their knowledge and explore frontiers;

Whereas, in retirement, John and Annie Glenn continued their public service by establishing the John Glenn School of Public Affairs at The Ohio State University, living up to the words of John Glenn, who said, ''If there is one thing I've learned in my years on this planet, it's that the happiest and most fulfilled people I've known are those who devoted themselves to something bigger and more profound than merely their own self-interest.''; and

Whereas, although 50 years have passed, the historic orbit of John Glenn around the Earth aboard *Friendship 7* remains a source of pride and honor for the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 50th anniversary of the landmark mission of John Herschel Glenn, Jr., in piloting the first manned orbital mission for the United States;

(2) recognizes the profound importance of the achievement of John Glenn as a catalyst for space exploration and scientific advancement in the United States; and

(3) honors the thousands of dedicated men and women of the National Aeronautics and Space Administration who worked on Project Mercury and ensured the success of the *Friendship 7* Mercury mission.

Mr. BROWN of Ohio. Mr. President, on behalf of Senator PORTMAN and myself, I am proud to have submitted this bipartisan resolution—joined by 18 Senators, 10 of whom served with John Glenn in the Senate.

Fifty-years ago next week, on the morning of February 20, 1962, John Herschel Glenn, Jr. of Ohio became the first American to orbit the Earth.

I was 9 years old. Like other families around Ohio, I watched him on television at home in Mansfield with my parents and two brothers.

The broadcast also showed John Glenn, Sr. and Clara Glenn, John's parents, watching anxiously.

Across the country, others were listening on transistor radios. In New York City, the subway system broadcast the liftoff and flight progress over loud speakers.

In Grand Central Station, CBS News set up a large 12 foot by 16 foot screen over the main ticket window—by the time of lift-off 10,000 people had packed the terminal.

Like millions of Americans, they watched Walter Cronkite set the scene. Our Nation was in the midst of the Cold War—worried about Russian nuclear aggression, worried about the race into space.

Cronkite would later say that:

It was a time when the intricacies of science were complicated by deep American doubts and anxieties over where we stood in the race with Russian science.

With the arms race in a dead heat, space had become the scoreboard of Cold War competition.

That's why a few years earlier, President Eisenhower launched Project Mercury as the first human spaceflight program in the United States—to put our country on the playing field.

Hundreds of our Nation's bravest and patriotic aviators signed up—only seven were selected as the original Mercury 7: John Glenn, Jr. of Ohio; M. Scott Carpenter of Colorado; L. Gordon Cooper, Jr. of Oklahoma; Virgil I. ''Gus'' Grissom of Indiana; Walter M. Schirra, Jr. of New Jersey; Alan B. Shepard, Jr. of New Hampshire; and Donald K. ''Deke'' Slayton of Wisconsin.

Glenn later wrote of the original Mercury 7 astronauts, ''The world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold.''

And when President Kennedy took office, he continued our Nation's pursuit into space—and race against the Russians.

He said, ''Our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men.''

Alan Shepard piloted the *Freedom 7* in May 1961 and Gus Grissom piloted *Liberty Bell 7* in July 1961 to prove that Americans could launch humans into suborbital flight.

But then the Russians successfully launched Yuri Gagarin into orbit around the Earth.

America's response was left to a decorated Marine aviator born in Cambridge, Ohio who grew up a few miles away in New Concord.

On the morning of February 20, 1962, the eyes of the world were on John Glenn, who was tasked with piloting our space program's most dangerous flight at the time.

He would command *Friendship 7*—named by Glenn and his children, Dave and Lyn, to emphasize our Nation's intentions in space.

But over weeks and months, his mission was scrubbed ten times.

The reasons were varied—from inclement weather to technical problems. Tensions remained high throughout.

Any miscues or failure would undermine national security—along with national pride and the country's psyche.

Finally, at 9:47 a.m. on February 20, 1962, with 70 degree Fahrenheit weather at NASA's Space Center in Cape Canaveral, Florida, *Friendship 7* was blasted off into space.

As the rocket ascended, people cheered. Others cried and prayed—the hopes of an entire nation rested on the shoulders of a single man in a space capsule hurling into an unknown place.

Everything was going as planned—from launch to orbital entry—and once successfully in space, John Glenn became the first American to orbit the Earth.

He would observe three sunrises, three sunsets, and the wonder of the universe in 4 hours and 56 minutes.

But during the flight, problems occurred. The spacecraft's automatic control system malfunctioned, causing Glenn to manually control the capsule.

And he was prepared to do so—benefitting from NASA's vigorous training that included 70 simulated missions and malfunction response training for nearly 200 simulated system failures.

His model of calmness, which I have seen many times over the years in all kinds of situations, would become standard operating procedure for future NASA manned space missions.

And despite having to deal with the malfunctions, Glenn still carried out critical parts of the mission.

He took photographs of the Earth, observed weather on the Earth's surface, and gave constant feedback to flight controllers about his physical responses to the zero-gravity environment.

But earlier in the flight, Glenn saw an indicator light that *Friendship 7's* heat shield had loosened—threatening his re-entry into Earth.

With its world-class scientists and engineers leading the way—and confident in its flight planning—NASA decided to keep the retrorocket pack attached to secure the heat shield.

As planned, *Friendship 7* re-entered the Earth's atmosphere—with Glenn describing the ''fire-ball'' re-entry as one of the most exhilarating parts of the flight.

It is the streak of light that people on Earth could see in the sky.

And in descent, the capsule successfully parachuted and splashed down in the Atlantic Ocean, east of the Grand Turk Island, at 2:43 p.m., Eastern Standard Time. The USS *Noa* retrieved *Friendship 7* and brought Glenn aboard—validating our Nation's pursuit of discovery and ensuring its place in the space race against the Russians. And just as important—the flight of *Friendship 7* and the courage of John Glenn inspired generations of new scientists, engineers, and aviators. It launched a new era of science, aerospace, and defense industries, and it showed that our advancements in science—in exploring the unknown—are not only a national security imperative, they are an economic imperative, too—reaffirming that we have what it takes to out-compete and outinnovate any nation in the world.

After his flight, Glenn received a hero's welcome—decorated with awards and accolades—and honored in tickertape parades and magazine profiles. Throughout it all, he remained humbled by his patriotism and his small

town Ohio roots—as a son whose father was a plumber, and whose mother was a schoolteacher. And he remained grounded by his love for his wife, his childhood sweetheart, Annie.

Much has been written about John and Annie. Both are just as in love with each other now in their 90s as they were as children when they met—as John says, in a playpen in New Concord.

He says of Annie, ''that she was part of my life from the time of my first memory.''

It is fitting that in celebrating the 50th anniversary of John Glenn's historic orbit of Earth, we honor his family—Annie and their children, Dave and Lyn who gave public blessing and private prayers and support during his service to our Nation.

I was fortunate to sit with Lyn and Dave and Annie in the Rotunda when John Glenn, with three other astronauts, received the Congressional Gold Medal for his flight aboard *Friendship 7*.

We also honor the thousands of dedicated and patriotic men and women of NASA's Project Mercury Program.

It took a huge team of people as dedicated as John Glenn, and perhaps as courageous, who ensured the safety and security of their astronauts and preserved the pride of a grateful Nation. John will be in Florida on this weekend to meet with those who were part of that operation—the engineers, the scientists, the technicians—thanking them again for sending him up and bringing him down safely. Their service has inspired generations of future NASA technicians and mission control specialists—from Plum Brook Station in Sandusky, to NASA Glenn in Cleveland, to NASA centers around the country.

At one of the first press conferences of the Mercury 7 astronauts, Glenn said:

> This whole project . . . stands with us now like the Wright Brothers—Ohioans also—stood at Kitty Hawk . . . I think we stand on the verge of something as big and expansive as that was 50 years ago.

It is that spirit of discovery, that conviction, duty, and faith that John Glenn embodies and that his flight aboard *Friendship 7* symbolizes. It is my honor to submit this bipartisan resolution celebrating such an important national and scientific achievement.

It is also my honor to be accompanied on the floor today by Nicole Smith, who is a fellow from NASA Glenn, an aeronautical engineer, who has done things as varied as having trained cosmonauts to the work she has done in our office, guiding the success of NASA Glenn, one of the best NASA centers in the country.

I am also joined on the floor by Laura Lynch, who has been with my office for 3 years—a Clevelander—who is actually leaving our office for bigger and better things in a couple of weeks. She has been part of this too.

In my last personal moment with this resolution, I remember 40-some years ago—44 years ago, I believe—when John Glenn was not Senator Glenn but still Colonel Glenn. I received my Eagle Scout award in Mansfield earlier in the year, and COL John Glenn came to a dinner with a number of other Eagle Scouts in Mansfield. I have a picture in my office in the Senate Hart Building of me standing there in my Boy Scout uniform with my Eagle Scout pin with John Glenn, and next to that is a picture of John Glenn and me some 38 years later before he walked me down the center aisle to be sworn in to the Senate with the Senator from Rhode Island in January of 2007.

John Glenn is special to our Nation. He is special to my wife Connie and me because of our love for John and Annie and our respect for Dave and Lyn, their children. He has honored our country in so many ways, it is my honor to submit this resolution and I thank my colleagues.

I yield the floor and suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA RURAL ROADS SYSTEM

Ms. MURKOWSKI. Mr. President, we are dealing with the Transportation bill, and let me say I hope we truly deal with the Transportation bill eventually because there has been a great deal of work on this measure by the chairman and the ranking members of the relevant committees, and I thank them for the hard work they have put into this. I support their efforts to give States long-term security for moving forward with Federal highway aid and transit programs. I support the efforts to give States that long-term security for planning purposes, improve the project approval process, and reduce duplicative and excessive programs. However, I do have very serious concerns with certain aspects of the legislation proposed. Most particularly, and the reason I have come to the floor this evening, is to discuss what this legislation does to the Indian Reservation Roads Program. This is the program known as IRR.

IRR is a jointly administered program between the Federal Highway Administration and the Bureau of Indian Affairs that addresses the transportation needs of our tribes by providing funds for the planning, the design, the construction, and the maintenance activities.

The Indian Reservation Roads are public roads. They provide access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaskan Native villages. There are approximately 29,000 miles that are under jurisdiction of the BIA and the tribes, and another 73,000 miles are under State and local ownership. IRR funds can be used for any type of title 23 transportation project that provides access to or within Federal or Indian lands and may be used as the State and local matching share for a portion of Federal aid highway funds. The IRR inventory is a comprehensive database of all transportation facilities that are eligible for IRR Program funding by tribe, reservation, BIA agency, region, congressional district, the State, and the county.

I think it is important to understand how we came to the position of where we are today with MAP–21. For years, Alaska received very little assistance from the IRR Program because we only have one reservation, a very small reservation down in southeastern Alaska, Metlakatla and, therefore, little to no BIA-owned roads. The BIA maintains a national database of roads, the IRR inventory, which is used to allocate IRR funds and determine locations where IRR funds can be used. State and county-owned roads comprise the majority of the road miles within the IRR system. A few decades ago, there were very few villages in Alaska that were putting any inventory into the system. TEA–21 gave the committee criteria in establishing the funding formula based on the needs of Indian tribes for transportation assistance, cost of road construction, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and education resources. With the passage of TEA–21, a rulemaking committee was established, the IRR Program Coordinating Committee, which helped to develop the funding formula which was published in 2004. The coordinating committee was made up of 12 primary members from Indian tribes, one from each region. There were 12 alternates and two nonvoting Federal representatives. Decisions that were made by the committee were reached by consensus. It was not a majority decision process.

The funding formula, which is known as the relative need distribution formula, adopted in the IRR Program final rule, reflects Congress's intent that the funding distribution method balance the interests of all tribes and enable all tribes to participate in the IRR Program. I should note that 40 percent of all federally recognized tribes in the Nation reside in the State of Alaska—40 percent. I think that is something many of my colleagues are not aware of. That balancing of interests called for avoiding substantial allocations from the larger tribes while still addressing the central problem that historically left the smaller tribes out of the program. The prior formula distributed funds based on an inventory limited to roads built and owned by the BIA. But the new formula broadened tribal participation by allowing the inclusion of State, county, and municipally owned IRR-eligible facilities in the inventory so the actual IRR transportation needs could be counted for funding purposes.

In 2003, Loretta Bullard, who is with a regional nonprofit representing the Bering Straits region of northwestern Alaska, testified before the Senate Indian Affairs Committee saying that the BIA had never surveyed any villages to identify the roads that were eligible for support. So there just wasn't a complete inventory at that time because there had never been a survey up in Alaska. That was back in 2003. As a result of the 2004 rulemaking, which took 5 years, by the way, Alaska increased its inventory. Alaska benefited from a competitive grant program that was established under the rulemaking for smaller tribes called the High Priority Project Program. This legislation we are dealing with now seeks to undo all the gains Alaska made through TEA–21, through the 2004 rulemaking, and through SAFETEA–LU. It is all unraveled with this legislation. Alaska is unfairly harmed by MAP–21, more than any other region in the country. Alaska loses $16 million a year under MAP–21 and tribes throughout the State will be effectively shut out of the program. This is not acceptable. The current negotiated regulation, which was developed, again, by consensus from tribes throughout the entire country, is focused on need. The new formula which we see reflected in this legislation was written behind closed doors by a handful of people with no government-to-government tribal consultation. Its focus is on the population and the urban areas. It disregards the trust responsibility that is owed to the 566 federally recognized tribes in our Nation, 229 of which reside in the State of Alaska—again, nearly half of all the recognized tribes in the Nation.

I think every time I come to the floor and talk about something, I have to put up the map of Alaska so we are all reminded how big it is. This is the proportional size when we superimpose Alaska over the rest of the lower 48. The red on this map is our road system. All these areas in white where we don't see anything, there are no roads there. Clearly our roads are pretty limited—our road system is centralized in the middle of the state, with a few scattered roads in other areas.

What is behind this kind of great shadow of Alaska? The States that are covered up behind it are North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, and Illinois. They are all kind of tucked under this great expanse. Just imagine if one is from Missouri, it would be like saying we have no roads in the state. That is what we are talking about. My map shows all the roads in Alaska, not the IRR roads. These are our State roads and our Federal highways. This is everything. So when we are talking about the IRR piece, it is even more minuscule in terms of comparison to what the Lower 48 has.

We have approximately 16,000 miles of road in Alaska, and 5,600 miles of those are unpaved. That sounds like a lot, but keep in mind, we have 570,000 square miles of land to cover in my home state. When you put in perspective, that's not a lot of roads we are talking about—16,000 miles of road for 570,000 square miles of state.

I would like to highlight some of the things we have been able to do in the State of Alaska as a result of the IRR Program. The Indian Reservation Roads Program funds the construction and maintenance of roads and bridges within Alaska Native villages. In many cases, these are not roads you and I would think of as typical roads.

Mr. President, I ask unanimous consent for an additional 5 minutes from my colleague, if that is acceptable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, most of our roads, when we are talking about the IRR roads, are not necessarily roads that are going to carry a vehicle. These are roads that will carry pedestrians, a four-wheeler, a snow machine. These are the ways that Alaska's Native people access our subsistence resources, haul their subsistence food home. These are the roads that form the link to the village airport, which is the only way out during the wintertime. If there are no roads, you have to be flying to all of these locations.

This is a picture of the village of Kwigillingok, which lies on the western shore of Kuskokwim Bay, 388 miles west of Anchorage. In this village, the primary mode of transportation is by foot, ATV, and snow machine in the wintertime. But you look at this picture, it is all nice, green—it looks beautiful. But it is tundra. It is wet and marshy. If you get down there in your rubber boots, you are going to be up to your knees in brush and water. You cannot walk through this and would not want to put a vehicle on it.

So what you see here is a real technological breakthrough in how to build rural roads in places where dirt and gravel either just do not exist out there or just do not work. This was built using IRR funds from the Native village of Kwigillingok, funding from the State of Alaska, and funding from the Denali Commission. This is construction of a geo-tech grid track. It looks like grading. It is like a plastic grading that overlays the ground and provides access over the tundra.

IRR funding and the Denali Commission funding were leveraged with other funding sources, and it provided jobs within the community.

The next picture we have is a boardwalk, a board road that was built in Nunam Iqua, which is on the south fork of the Yukon River, about 500 miles northwest of Anchorage. Again, this project was made possible by leveraging funds from the Denali Commission, the State of Alaska, and Nunam Iqua's tribal shares from the IRR Program.

It is just a boardwalk, but you look at this picture, and you can see it is kind of rippled and wavy. Well, that is what happens when you put boards on top of wet, marshy tundra, but at least you can walk on it. At least you can access it by your four-wheeler without doing damage to the area and it connects your schools and health clinics to the homes. This project created jobs within the community and a safe road system for the residents to access public facilities.

This picture is from one of my visits down in the Y-K Delta. You can see, this is their road system. It provides a connection to homes and to community facilities. This is the means of transportation here. You go out on the tundra there and, again, you sink.

I took Secretary Paige, the Secretary of Education, out there to one of our smaller villages, Tuntutuliak, and we got out and got on the boardwalk, and he said: When does it dry out here?

I said: Sir, this is as dry as it gets.

He said: Where do the children play?

I said: Well, this is it.

In the Lower 48 children play on the sidewalks and quiet neighborhood streets, in rural Alaska children play on the boardwalks.

We also have some challenging conditions in other parts of our State.

In southeastern Alaska, we do not have to worry about the tundra, but we do have some challenging conditions. The Craig Tribal Association down in Craig has been working on the reconstruction of the Port Saint Nicholas Road for the past 4 years. The road has several bridges that are being replaced concurrent with the road construction.

Again, ''the Denali Commission has been a committed, critical partner,'' in the words of the tribe. In this picture, you can see Dog Salmon Creek Bridge prior to the construction. This was a dilapidated, rotting, wooden bridge. Then, in the next picture, you can see what $1.7 million from the Denali Commission and from IRR does—a modest investment that really comes together. You have a paved road and a solid bridge that is going to last for decades.

But these projects could not be built under the reduced funding levels for small tribes that we have proposed in MAP–21. Tribal transportation funding in the bill is directed toward populated areas, and roads that are more established receive greater amounts of funding.

So again, when you take into account an area such as Alaska, where we have many miles but few people, and a formula that is designed to work against us, how do we ever make headway, how do we ever connect these communities, how do we ever allow for a transportation system to progress and be developed?

I have submitted an amendment I hope we will have an opportunity to bring up. It restores current law and current regulations with respect to the funding formula that was developed, again, after years of negotiation in a very open and transparent process.

Just yesterday, at the Intertribal Transportation Association meeting in

Minnesota, we had tribes from the Rocky Mountain region, the Great Plains region, the Midwest region, and the Navajo Nation who all agreed that MAP–21 sets a dangerous precedent to allow Congress to overturn the tribal rulemaking process, as it is a threat to tribal sovereignty, and we are hearing more and more concerns every day about the opposition coming from those who feel they have been circumvented by Congress in this act.

In the past couple days, I have received letters from tribes from California, as well as Alaska. I have a letter from the Susanville Indian Rancheria, one from the Ramona Band of Cahuilla, who wrote: Under MAP–21, smaller urban tribes with paved roads garner a significant increase in funding while tribes such as the Ramona Band which are rural and have poor roads, arguably those with the most need and no other access to transportation funding, will see significant decreases.

What I am trying to do is restore some parity.

I ask unanimous consent that these letters from not only the Alaskan tribes but from the Californian tribes I just mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUSANVILLE INDIAN RANCHERIA,
Susanville, CA, February 13, 2012.

Re Murkowski Amendment to MAP–21's Tribal Transportation Program.

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER, I write to you today on behalf of the Susanville Indian Rancheria to encourage you to co-sponsor and support the attached amendment to S. 1813, the Moving Ahead for Progress in the 21st Century (''MAP–21'') legislation proposed by Alaska Senator Murkowski. The amendment would remove the population based Tribal Transportation finding formula and replace it with the funding presently in SAFETEA–LU.

Based on the data provided by the Bureau of Indian Affairs (''BIA''), Tribes throughout Indian Country (California, Alaska, New Mexico, Michigan, Minnesota, Utah, the Dakotas, and Wisconsin) would lose millions in program funds under the MAP–21 funding formula.

Under the proposed legislation, the current Indian Reservation Roads Program (IRR) would be discarded and replaced with what is called the Tribal Transportation Program (TPP). The current IRR program is how federal transportation funding is filtered to tribes. The TTP was created to address what is argued to be the flawed IRR program.

The great majority of Tribes strongly oppose MAP–21, including 189 Alaska Tribes, the Navajo Nation, and the majority of Tribes in California New Mexico, Michigan, Minnesota, Utah, the Dakotas, and Wisconsin.

Unlike the original IRR formula distribution that was ultimately finalized by negotiated rule making with tribes, no tribes were consulted in the creation of the TTP. The new TTP under MAP–21 was created without any tribal consultation, and the program is based on population and not road needs. This sort of formula would never be used by states in their determination of road funding.

Tribes recognize that the current IRR formula has imperfections; however, the TTP does nothing more than exacerbate the issue and creates even greater problems than before.

Under MAP–21, small urban tribes with paved roads garner a significant increase in funding—while rural tribes with poor roads, arguably those with the most need and no other access to transportation funding, will see significant decreases. While funding for California tribes would be increased by a minimal $192,000 for 110 tribes, the California tribes with the greatest needs and poorest roads would suffer significant funding decreases.

The proposed solutions within MAP–21 do not adequately address the problems inherent within Indian Country transportation funding. The solution is not for Congress to impose a flawed funding formula on Tribes and overturn the SAFETEA–LU funding formula that was agreed upon by all Tribes in negotiated rulemaking. While federal agencies may believe they are smarter than Tribes and know better how to resolve the funding formula imperfections, we disagree and believe the consensus among Tribes achieved in the negotiated rulemaking that approved the funding formula under SAFETEA–LU must prevail is tribal consultation is to have real meaning.

The same proposed amendment herein included was added to H.R. 7 in amendments offered by House Transportation and Infrastructure Committee Congressman Don Young during that committee's markup of H.R. 7 on February 2, 2012.

Please support this fair and common sense amendment to MAP–21 and let us know how we may assist you to increase support for this in the Senate.

Sincerely,

MR. STACY DIXON,
Tribal Chairman.

RAMONA BAND OF CAHUILLA,
A SOVEREIGN NATION,
Anza, CA, February 13, 2012.

Re: Submission of Request to Support Amendment to MAP–21

Senator LISA MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the Ramona Band of Cahuilla, a federally recognized Tribe located in California, Chairman Joseph Hamilton submitted requests to Senator Boxer and Senator Feinstein requesting their support for your proposed amendment to MAP–21.

Attached is a copy of the request letters to each Senator. As you can see, the requests were also forwarded to the Senate Committee on Indian Affairs. Additionally, the Ramona Band will forward copies of the requests and a letter stating the Tribe's support for the proposed amendment to Congresswoman Mary Bono Mack, our Representative in the House.

The Ramona Band supports your proposed amendment as a fair and common sense approach to address a critical issue in MAP–21 that would negatively impact numerous Tribes and hinder us in our collective efforts to provide for the health and safety of our communities.

Place feel free to contact the Ramona Band if you have any question or wish to discuss this issue.

Respectfully,

JOHN GOMEZ, Jr.,
Project Coordinator.

RAMONA BAND OF CAHUILLA,
A SOVEREIGN NATION,
Anza, CA, February 13, 2012.

Re: Murkowski Amendment to MAP–21's Tribal Transportation Program

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Ramona Band of Cahuilla, a federally recognized Indian Tribe located in Riverside County, California, I write to you today to encourage you to co-sponsor and support the attached amendment to S. 1813, Moving Ahead for Progress in the 21st Century (''MAP–21'').

The attached amendment, as proposed by Alaska Senator Murkowski, would remove the population based Tribal Transportation funding formula found in MAP–21 and replace it with the funding formula presently found in SAFETEA–LU. The amendment mirrors that which was added to H.R. 7 by Congressman Don Young in the House Transportation and Infrastructure Committee markup of H.R. 7 on February 2, 2012.

Under MAP–21, the current Indian Reservation Roads Program (IRR) would be discarded and replaced with what is called the Tribal Transportation Program (TTP). The current IRR program is how federal transportation funding is filtered to tribes. The TTP was created to address what is argued to be the flawed IRR program.

Unlike the original IRR formula distribution that was ultimately finalized by negotiated rulemaking with tribes, no tribes were consulted in the creation of the TTP. The new TTP under MAP–21 was created without any tribal consultation, and the program is based on population and not road needs. This sort of formula would never be used by states in their determination of road funding.

Under MAP–21, small urban tribes with paved roads garner a significant increase in funding—while tribes such as the Ramona Band which are rural and have poor roads—arguably those with the most need and no other access to transportation funding—will see significant decreases.

Based on a comparison of the funding formulas, funding for California tribes would be increased by a total of $192,000 for the 110 tribes under the MAP–21 formula. However, the Ramona Band's funding would be reduced by nearly $70,000.00 (more than 70% of our current funding). California tribes with the greatest needs and poorest roads would suffer significant and disproportionate funding decreases which would cripple their ability to address necessary planning maintenance, and construction projects of their outdated and/or damaged roads. While the current formula is not perfect, it properly considers the needs of tribes and tribal communities, the conditions of their current inventories, and their desire to provide adequate, safe, and secure routes, Changes to the current IRR funding formula, such as those proposed in MAP–21, would greatly damage small, rural tribes and have long-term negative impacts on their communities and roads systems.

Furthermore, the proposed solutions within MAP–21 do not adequately address the problems inherent within Indian Country transportation funding. The solution is not for Congress to impose a flawed funding formula on Tribes and overturn the SAFETEA–LU funding formula that was agreed upon by all Tribes in negotiated rulemaking. While federal agencies may believe they are smarter than Tribes and know better how to resolve the funding formula imperfections, we disagree and believe the consensus among Tribes achieved in the negotiated rulemaking that approved the funding formula under SAFETEA–LU must prevail if tribal consultation is to have real meaning.

Please support this fair and common sense amendment to MAP–21 so that tribes like the Ramona Band can plan for the future and provide for the health and safety of our community.

Sincerely,

JOSEPH D. HAMILTON
Tribal Chairman.

WRANGELL COOPERATIVE ASSOCIATION,
Wrangell, AK, December 12, 2011.

Re: MAP–21 ''Moving Ahead for Progress in the 21st Century Act''

SENATOR LISA MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI, The Wrangell Cooperative Association (hereinafter referred to as the WCA) has reviewed the Senate Minority Environmental Public Works proposed legislation MAP–21, ''Moving Ahead for Progress in the 21st Century Act'' and shares the following concerns.

Previous legislation, which you were instrumental in authoring, ''SAFETEA–LU'', provided the opportunity for Alaska and Federally Recognized Tribes to participate in the transportation program at 100%. Proposed legislation, ''MAP–21'', takes a step backwards and decreases funding for tribes significantly, basically uprooting their transportation programs.

Under Section 1116, Federal Lands and Tribal Transportation Programs, these are a few of the programs to be affected should the MAP–21 legislation be passed: Indian Reservation Roads Bridge Program (IRRBP), Tribal Scenic Byways, Indian Reservation Road High Priority Project Program (IRRHPP), Tribal Transit Program, Tribal Safety Programs.

The National Bridge and Tunnel Inventory Identified within MAP–21 have already been completed as a result of SAFETEA–LU. Having separate inventory developed with another set of standards will be time consuming and costly to tax payers. Currently an AASHTO standard is being used to assure that everything is designed and built properly.

National Facility Inventory identified in MAP–21 has already been established per SAFETEA–LU and the Final Rule 2004, 25CFR, PART 170 Indian Reservation Roads Program.

Returning prior to October 1, 2004 would take away the ability of Alaskan Tribes, established by SAFETEA–LU, to participate in the Transportation Program at 100% and would NOT capture the transportation needs within Alaska; therefore, we strongly oppose this legislation.

The Funding Formula identified in MAP–21 will not work because it only calculates population and lane miles. Here in Alaska, tribes would not be able to sustain building roads at the local level because our populations would not generate enough funding to create a local match for projects. We need to keep the current formula Or the relative need distribution formula (RNDF) that is currently in the regulations of 25 CFR, PART 170.

The proposed legislation goes away from the Average Daily Traffic (ADT), Cost to Construct (CTC), and Vehicles Miles Traveled (VMT) of the equation in which is valuable in developing design standards when planning, designing, and constructing roadways.

Since SAFETEA–LU, many Alaskan communities have built very successful tribal transportation programs and have had, do have and will continue to have great projects if MAP–21 does NOT pass. This Proposed legislation is a huge threat to our transportation programs, specifically Alaska.

WCA/ANTTC just finished our first IRR Program project this past summer. IRR HPP Funding was an integral part of the funding that was put together to finance the project. Under MAP–21 IRR HPP is gone. We are sure there are other components of MAP–21 that will hurt Alaska and Alaska Tribal Governments in this proposed legislation. Attached are pictures of before the project began and after the project was finished. Quite a contrast in what was there before and what is here now. WCA encourages you to come up with a longer term solution to the overall picture within the Transportation and Infrastructure picture throughout our great country and not support MAP–21.

Thank-You,

DAWN HUTCHINSON,
WCA President.

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, ADMINISTRATION,
Bethel, AK, December 8, 2011.

Re: EPW MAP–21

INTER-TRIBAL TRANSPORTATION ASSOCIATION,
c/o John Healy, President,
Harlem, MT.

DEAR PRESIDENT HEALY AND ITA MEMBERS: The Association of Village Council Presidents (AVCP) is a Native Non-profit organization comprised of 56 federally-recognized Indian Tribes in southwest Alaska. On behalf of AVCP's member Tribes, we wish to convey concern over certain provisions of Section 1116 of the proposed MAP–21 bill.

As background, the AVCP Tribes are not connected by any road system and are scattered over an area approximately the size of Oregon. The Tribes transportation needs are significant and framed against the backdrop of significant challenges, including short building seasons, shipping costs that reach 40% of total project budgets, building in remote locations without any road infrastructure, and no access to very basic human needs, such as health care and education. A large portion of the AVCP region has no roads at all, and that fact is critical to understanding its member Tribes' transportation plans. It wasn't until approximately 10 years ago that, by statute, Alaska Tribes were allowed to participate in the Indian Reservation Roads program. Since that time, they have been vigorously developing transportation programs on the premise of meeting very basic but essential needs. The struggles over having to choose between purchasing food or purchasing gasoline and figuring out how to get to the nearest health facility for basic health care were beginning to be resolved through road building. Having a better understanding of the underlying realities facing Alaska Native Tribes will lead to a better understanding of their unique challenges and a fair and equitable solution to any proposed legislation.

With respect to our objections to MAP–21, our concerns include the following. The Bill sets a dangerous precedent by tearing apart formulas that were developed during an extensive negotiated rule-making process, opening the door to disassembling other Tribal programs, such as Housing and the reauthorization for NAHASDA. The Bill further eliminates entirely the High Priority Program, which has provided an enormous amount of support for Alaska Tribes, who have just begun developing their infrastructure.

The Bill further eliminates the Population Adjustment Factor. Because the average population number, at least in the AVCP region, for our Tribes is 200, only those Tribes with large population numbers will benefit.

The Bill also changes the ability for Alaska Tribes to participate in a meaningful way by altering the distribution formula. Alaska Tribes were only recently allowed to participate in the IRR Program, which means that only a scant number of roads prior to 2004 were entered into the system. This proposal would essentially obliterate Alaska Tribes' existing programs. Moreover, as a large portion of the roads in Alaska are not paved, Alaska Tribes would further suffer from the lane mile formula, counting unimproved roads as one lane mile and paved roads as 2-lane miles. The proposed funding formula contained in MAP–21 would result in an 85% reduction to our Tribes' programs. Alaska Tribes together own 44 million acres of land with little to no roads within them. The inventory they have built up in efforts to building an infrastructure to improve the health and safety of their members will disappear, funneling those funds to Tribes with a decades-long road systems and larger populations.

The Bill is inequitable, and we urge the ITA to take a serious look at the unfair consequences it places on Alaska Tribes.

Sincerely,

MYRON P. NANENG, Sr.,
President.

KLAWOCK COOPERATIVE ASSOCIATION, TRIBE,
Klawock, AK, December 5, 2011.

Re: MAP–21 ''Moving Ahead for Progress in the 21st Century Act''

Hon. Senator LISA MURKOWSKI,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: The Klawock Cooperative Association (KCA) has reviewed the Senate Minority Environmental Public Works proposed legislation Map–21, ''Moving Ahead for Progress in the 21st Century Act'' and shares the following concerns.

Previous legislation, ''SAFETEA–LU'', provided the opportunity for Alaska and Federally Recognized Tribes to participate in the transportation program at 100%. Proposed legislation, ''MAP–21'', takes a step backwards and decreases funding for tribes significantly, basically uprooting their transportation programs.

Under Section 1116, Federal Lands and Tribal Transportation Programs, these are a few of the programs to be affected should the Map–21 legislation be passed: Indian Reservation Roads Bridge Program (IRRBP), Tribal Scenic Byways, Indian Reservation Road High Priority Project Program (IRRHPP), Tribal Transit Program, Tribal Safety Programs.

The National Bridge and Tunnel Inventory Identified within MAP–21 have already been completed as a result of SAFETEA–LU. Having separate inventory developed with another set of standards will be time consuming and costly to tax payers. Currently an AASHTO standard is being used to assure that everything is designed and built properly.

National Facility Inventory identified in MAP–21 has already been established per SAFETEA–LU and the Final Rule 2004, 25 CFR, PART 170 Indian Reservation Roads Program. Returning prior to October 1, 2004 would take away the ability of Alaskan Tribes, established by SAFETEA–LU, to participate in the Transportation Program at 100% and would NOT capture the transportation needs within Alaska; therefore, we strongly oppose this legislation.

The Funding Formula identified in MAP–21 will not work because it only calculates population and lane miles. Here in Alaska, tribes would not be able to sustain building roads at the local level because our populations would not generate enough funding to create a local match for projects. We need to keep the current formula or the relative

need distribution formula (RNDF) that is currently in the regulations of 25 CFR, PART 170. The proposed legislation goes away from the Average Daily Traffic (ADT), Cost to Construct (CTC), and Vehicles Miles Traveled (VMT) of the equation which is valuable in developing design standards when planning, designing, and constructing roadways.

Since SAFETEA–LU, many Alaskan communities have built very successful tribal transportation programs and have had, do have and will continue to have great projects if MAP–21 does NOT pass. This Proposed legislation is a huge threat to our transportation programs, specifically Alaska, therefore; we encourage you to vote against it and come up with a long term solution to the overall picture within the Transportation and Infrastructure in our great state.

Sincerely,

A. WEBSTER DEMMERT III,
Tribal President.

Ms. MURKOWSKI. Mr. President, I have other concerns with this Transportation bill. I have mentioned the Denali Commission several times today. I have joined my colleague, Senator BEGICH, in filing an amendment to this bill that would restore the Denali Commission's transportation program—an incredibly important program to our State. I have also raised concerns about a provision within the banking title that relates to our Alaska Railroad.

These are concerns that, while they might not register fully with all of our colleagues here in the Senate, to Alaska they are critical. Our transportation needs are different. Some might say they are unique. But we have risen to the challenge with limited funding and smart people trying to do good things to connect us in ways that make sense.

Through the work of the Denali Commission, our IRR funding, and our Alaska Railroad, we have been engaged in building up the transportation infrastructure of the Last Frontier. In order to continue the progress that we've made thus far, I ask for your support and consideration to address the problems I've outlined with this legislation.

With that, I thank my colleague from Oregon for giving me some additional time this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I too wish to address transportation infrastructure. I enjoyed the presentation of my colleague from Alaska. Her State certainly has some unique challenges in terms of creating a way for goods and people to move around the State effectively. I look forward to hearing the details of her amendment when we get to the Transportation bill.

Meanwhile, we are sitting here in this Chamber—both of us—unable to present our amendments before this body because we are not yet on the Transportation bill. Why would that be?

Well, apparently, there are Members of this body who have decided to obstruct the normal ability to assemble the bill that comes from four committees on this floor in order to do nongermane amendments that have nothing to do with transportation and to hold this entire body hostage, to hold hostage those on the left side of the aisle and to hold hostage those on the right side of the aisle, to hold transportation hostage, to hold, if you will, jobs across America hostage. This hostage-taking is just not right. It is just not right that when we should be building infrastructure in America, which is right in the short term for jobs and in the long term for our economy, we are instead sitting here talking about the amendments we would like to offer to make the transportation system work better, to improve upon the bill as it came out of committee.

Now, just to refresh the memories of my colleagues, this Transportation bill has gone through four committees successfully. It has gone through Commerce. It has gone through Finance. It has gone through Banking. It has gone through Environment and Public Works. In the course of that, in two of these committees, the bill was unanimous. And in the other two committees, it was not unanimous, but it was bipartisan. So we have had this bill come to the floor with the support of 85 Senators in the four committees. Yet we cannot get the conversation on the floor started. This is enormously frustrating to everyone across America.

I found it interesting to see this letter from 2 days ago. I thought I would just read it to you. It has a list of about 20 organizations that are appealing for the commonsense deliberation of transportation infrastructure. It is dated February 13, 2012.

It says:

To Members of the United States Senate:

The time is now to pass S. 1813, [the] Moving Ahead for Progress in the 21st Century [bill], the bipartisan highway bill crafted by the Environment and Public Works Committee. Last Thursday, eighty-five Senators voted to invoke cloture on the motion to proceed to S. 1813, clearly demonstrating bipartisan support for passing the highway and transit bill. While we are encouraged by this show of support, the undersigned organizations are concerned that progress may be impeded if non-germane amendments are offered as part of the deliberations on this bill.

The organizations that we represent may hold diverse views on social, energy, and fiscal issues, but we are united in our desire to see immediate action on the Senate's bipartisan highway and transit reauthorization measures.

This does come from a broad array of organizations. It comes from the AAA, the American Automobile Association. It comes from the American Association of State Highway and Transit Officials. It comes from the American Bus Association. It comes from the American Concrete Pavement Association. It comes from the American Council of Engineering Companies. It comes from the American Highway Users Alliance. It comes from the American Moving & Storage Association, from the American Public Transportation Association, from the Road and Transportation Builders Association, from the American Society of Civil Engineers, from the American Traffic Safety Services Association, from the American Trucking Associations, from the Associated General Contractors of America, the Associated Equipment Distributors, the Associated Equipment Manufacturers, the Association of Metropolitan Planning Organizations, the Commercial Vehicle Safety Alliance, the Governors Highway Safety Association, the Intelligent Transportation Society of America, the International Union of Operating Engineers, the Motor & Equipment Manufacturers Association, the National Asphalt Pavement Association, the National Association of Development Organizations, the National Construction Alliance II, the National Stone, Sand & Gravel Association, the Portland Cement Association, and the U.S. Chamber of Commerce.

That is an extraordinary array of groups that are saying: Enough with the posturing on social issues. Let's get to work building the infrastructure of America.

Now, one of the amendments a colleague wants us to spend our time on is an amendment that says: If you are the owner of a business, anything you consider to be a health care perspective, you can impose on your employees. There is some interesting humor on this on late-night television.

I believe it was Jon Stewart's show, ''The Daily Show,'' in which he said: You know, in my business, I happen to think that humor is the best medicine. So I am going to impose a health care bill or a health care policy on all the folks who work for me that says, if you get sick, you have to go to a comedian for therapy or you have to read a joke book or something like that.

I mean, this is not a serious amendment, and it is not about highway infrastructure.

While we sit here doing nothing in this Chamber, China is spending 10 percent of its gross domestic product on infrastructure. I had a chance to go to China 14 years ago and then once again last year. In the intervening timespan, they went from a couple ring roads and virtually no connecting roads between major cities to an enormous highway system, an enormous expansion of the infrastructure in major cities, light rail systems, high-speed trains. It was enormously strange to get on a train in Beijing and go at 200 miles per hour to Tianjin. I cannot get on a train here in DC and go 200 miles per hour anywhere. There are vast infrastructure projects across that nation in cities we have never even heard of because they are spending 10 percent of their gross domestic product building the infrastructure that will be the foundation of a future thriving economy.

Europe is spending 5 percent—half of what China is spending but still substantial. What are we spending here in America? And when I ask this question in townhalls, normally folks say 1 percent or maybe they venture 5 percent.

But depending on how you count it, the answer is 2 percent. So it is a fraction of what Europe is spending and one-fifth of what China is spending. Thus, we are barely able to repair the infrastructure we have, let alone build the infrastructure for the economy of tomorrow.

Now here we are, spending our time awaiting the opportunity to have the highway and transit bill here on the floor of the Senate so that we can direct resources to build that infrastructure. But instead of debating, we wait.

So I say to my colleagues across the aisle, who somehow have lost sight of the fact that infrastructure is essential for building America, who have lost sight of the fact that the construction industry is flat on its back and ready to go to work, who have lost sight of the fact that right now with low interest rates and an unemployed construction business this is the best time to be investing in infrastructure, the most cost-effective time to be investing in infrastructure, I say to my colleagues who have lost sight of the fact that there is a responsibility to spend a dollar wisely, in construction and infrastructure, now is the time when you get the biggest bang for the buck, now is the time when it is wise.

This is not just about the infrastructure that makes our economy work better, it is about creating jobs. Maybe some folks in this Chamber say: Well, we want to play politics with jobs. We do not want people to go back to work. We want America to be broken so we can promote our Presidential candidate over someone else's Presidential candidate.

I say that is irresponsible. It is absolutely irresponsible to be playing these political games with the livelihood of working Americans.

The bill that came out of the House or the bill that was proposed in the House was a 35-percent reduction in highway spending, infrastructure spending. What would that mean for my State back home? Well, it would mean projects all over the State that address critical chokepoints in transit and transportation will not get addressed.

I have a 36-county tour. Every year I go and listen to folks in every one of my 36 counties, and I talk, and I have a special meeting with the county and city officials beforehand. Inevitably, they say: Here are our infrastructure challenges. Please go back and fight to do something so that we have the resources to tackle these challenges and make our economy stronger.

So I am here on the floor awaiting the embargo imposed by my colleagues who are not so concerned about infrastructure, who apparently have not talked to their city and county officials who are desperate to take on these chokepoints in their local economy. So I say to them: Stand aside. If you cannot get on board with making America work, stand aside so the rest of us can put America to work.

In Oregon, this is also 7,000 living-wage jobs—the difference between the vision the House had on the other side of this building and the vision the Senate had. The Senate vision is not, quite frankly, that ambitious. The Senate vision simply says that we are going to maintain the fiscal 2011 support for the transportation process, for the transportation infrastructure. It is not building beyond that. It should be, but it is not. So it is a modest vision. But compare it to the vision on the other side of the Capitol and the other side of the aisle which says: Let's not only not spend 2 percent, let's cut the entire budget by one-third—let's put 7,000 people out of work in Oregon who are not only building a foundation for their families, they are building the foundation for the future economy. I know that in every State there are similar portions of workers who want to be at work, getting up with a mission in their life to go out and do something useful for their society, to build something useful, and to have a paycheck to put the foundation under their family.

The time has long passed for us to be fully debating this bill. I urge my colleagues to come and do the work the American citizens expect of us all.

RECOGNIZING INDIANA UNIVERSITY CHEERLEADERS

Mr. LUGAR. Mr. President, I rise today to recognize the Indiana University Crimson All-Girl Cheerleading Team in honor of their being named the 2012 Division I UCA College National Champions.

This national distinction has brought well-deserved attention and accolades to these young women, whose hard work and dedication helped them rise to the top. This is the first national championship for IU's all-girl team, and their hard-earned victory lays the foundation for many future successes.

I congratulate these young women on their outstanding achievement and wish them every continuing success in their academic and athletic endeavors. I am pleased to submit for the record the names of the championship team members and coaching staff.

2012 NATIONALS TEAM MEMBERS

Abby Markowitz, Adina Johnson, Alex Martin, Angela Stilwell, Brooke Carlin, Caity Hinshaw, Chelsea McMullen, Chrissy Day, Courtney Byrne, Elizabeth Cross, Halle Hill, Hannah Cox, Heather Barton, Jena Hecht, Kari Hellman, Kari Swartz, Kirby Lynch, Kristen Fischer, Natalie Skizas, Samantha Dewling.

Coaching Staff: Julie Horine, Chuck Crabb, Hank Light, Jeff Cox, Tony Nash.

REMEMBERING FRANK MARTIN CUSHING

Ms. MURKOWSKI. Mr. President, it is with great sadness that I come to the floor concerning the passing of Frank Cushing, one of the true public servants that the Congress has known. Frank served as a legislative aide to Senator Jim McClure of Idaho prior to joining the Appropriations Committee staff as director of the Subcommittee on Interior and Related Agencies in 1981. In 1984 he became the staff director of the Committee on Energy and Natural Resources, a post he held until 1991. Although he left briefly for the private sector, public service remained an integral part of his commitment to the Congress and this Nation. His expertise, command of the appropriations, authorizing, and budget processes, and his exceptional talent and ability to work with others was missed, and he returned to the Congress as staff director of the House Appropriations Committee under Congressman LEWIS.

It takes exceptional abilities to be a good staff director, especially with the strong personalities that come with the experts who serve on the staff of our committees. Frank had the ability to work across the aisle and with other committees as few have ever done. His knowledge of the appropriations process and budgeting provided a unique depth to the consideration of authorizing legislation. He was able to challenge the staff, improve the work product, and set a high standard for quality and substance that we still strive to maintain. Much of the work of the Energy and Natural Resources Committee is bipartisan and often nonpartisan, reflecting regional interests and concerns, and Frank understood how those interests and concerns could fit within the overall policies that we tried to set for our energy, public lands, and resource goals.

During his tenure on the committee, Frank in many ways was responsible for the close working relationship between Senator McClure and Senator Johnston as they switched from their roles as chairman and ranking member. Frank was extraordinarily helpful when Senator McClure was chairman in resolving the budgetary issues that threatened to hold up the Compacts of Free Association that, when finally enacted, led to the termination of the Trusteeship of the Pacific Islands the last of the U.N. Trusteeships. When Senator Johnston announced at the beginning of one Congress that he thought the committee should consider and report legislation dealing with Puerto Rico as well as national energy policy, Frank was in large measure responsible for negotiating and constructing the framework and process that enabled the committee to successfully report both measures with bipartisan support, although I should mention that there were also bipartisan concerns as well.

Those are details, however, and do not convey what a warm and generous person Frank was. They do not convey the respect and admiration that those who worked with him had for his ability to negotiate without rancor and without being disagreeable. They do not tell of his concern for his staff and their problems or his interest in their

welfare and future or how the friendships that developed during his tenure continued and grew and deepened over the years since he left.

There is one other aspect of Frank's service to the Senate as staff director of the Energy and Natural Resources Committee that should be mentioned. If Frank always put public service and the willingness to respond to calls to return to public service above the lures of the private sector, there was one passion that surmounted everything else and that was his love for his family. Frank met his wife Amy while he served on the Energy Committee, and anyone who ever met Frank understood that Amy and his children, from his first marriage and with Amy, were the center of his life.

Our hearts and thoughts in these times go out to Amy and Frank's children and to all their family and to those who were close to him. His presence remains with the institutions he served; and his humor, compassion, and commitment will continue to be a marker for not just our committee, but for public service generally. His family and multitude of friends lost a good and faithful man, but they all remain the richer for having known him for the many years, both in and out of government, that they shared with him.

ADDITIONAL STATEMENTS

RECOGNIZING THOS. MOSER CABINETMAKERS

● Ms. COLLINS. Mr. President, in his famous essay titled ''Courage,'' Ralph Waldo Emerson wrote that he most admired those ''who can organize their wishes and thoughts in stone and wood and steel and brass.'' In our time, when so much is mass produced and temporary, we have a special regard for the craftsmen and women who turn the materials provided by nature into objects of beautiful form and lasting function.

I rise today to congratulate the craftsmen and women of Thos. Moser Cabinetmakers of Auburn, ME, as they celebrate the 40th anniversary of this remarkable company. With skill and creativity, they transform black cherry, maple, ash, and walnut into fine furniture that is recognized worldwide as the pinnacle of the woodworkers' art.

This story of success driven by the pursuit of excellence began in 1972, when Tom Moser left the secure life of a college professor to follow his dream to revive the craftsmanship of woodworkers of the past. With his wife Mary, they set up shop in an old Grange Hall in New Gloucester, ME.

They met the challenges faced by all entrepreneurs with determination. Soon, their sons joined them in the growing business. Today, 70 skilled men and women work in their modern woodshop in Auburn and another 50 in other aspects of the operation, including showrooms in major American cities, from New York and Washington, DC, to Los Angeles and San Francisco.

When Tom and Mary Moser founded this company, they did more than revive quality woodworking—they were pioneers in Maine's thriving creative economy. From cutting-edge technology to the arts, these visionaries are moving our State forward, building new industries and new opportunities.

This segment of the creative economy truly defines Maine. The resurgence of furniture making, cabinetry, pottery, and textiles bring the past alive and remind us of the special quality of something made by hand in Maine. The talented designers and woodworkers of Thos. Moser Cabinetmakers create objects that bring pleasure today and will be treasured heirlooms for generations to come. I congratulate the Moser family and all their employees for 40 years of success.●

RECOGNIZING PORTLAND COMMUNITY COLLEGE

● Mr. MERKLEY. Mr. President, today I wish to congratulate Portland Community College in Portland, OR on its 50 years of delivering high-quality education. Portland Community College has consistently demonstrated its devotion to an accessible education for everyone, serving more than 1.3 million college-age residents in a five-county area in Northwest Oregon.

Simply put, the education offered at Portland Community College creates a pathway to the middle-class for so many Oregonians. Students of all ages and backgrounds rely upon this college to improve skills for either career or personal reasons, explore opportunities, complete a high school degree or GED, work towards a bachelor's degree, or complete a certificate or technical degree. Portland Community College's mission has always been to create a foundation of long term vitality by supporting a broad range of needs in northwest Oregon.

Fifty years of commitment to accessible life long learning opportunities has produced more than 1.3 million educated members of the Oregon community and our Nation—members who, thanks to PCC, are prepared to attain the American dream. To Preston Pulliams, the district president of Portland Community College, and to the faculty and students of PCC, congratulations on a half century of academic excellence.●

RECOGNIZING THE ALASKA SPORTS HALL OF FAME

● Ms. MURKOWSKI. Mr. President, today I wish to recognize the Alaska Sports Hall of Fame. Since the body's inception in 2006 and its first class of inductees in 2007, the Alaska Sports Hall of Fame has educated Alaskans and visitors, honored and preserved memories in Alaskan sports, and promoted a healthy youth population by providing activities that will inspire children to strive for success in their own lives. The Hall's mission is to teach, honor, and inspire.

Beyond that core mission, the Alaska Sports Hall of Fame has done much to promote the accomplishments of the world-class athletes in the great state of Alaska. The 23 Hall of Fame inductees through 2012 have stacked up tremendous accomplishments, but there is, perhaps above all else, a single thread that binds the inductees together: a love and respect for Alaska.

Dr. Bradford Washburn, without ever actually living in-State, was certainly an honorary Alaskan. He traversed the North Country in more than 70 trips and strapped himself into the open door of a low-flying plane for aerial photographic work of the great State of Alaska. The legendary ''Huslia Hustler,'' George Attla, was a ten-time Fur Rondy sled dog champion and motivated crowds that included a strong rivalry with Roland ''Doc'' Lombard. Carlos Boozer, born in Juneau, played for the Crimson Bears at Juneau-Douglas High School, compiling a 95–12 career record and winning back-to-back Class 4A State titles in 1997 and 1998, before moving on to be an NBA All-Star. Reggie Joule, the greatest practitioner of the blanket toss in the long history of the World Eskimo-Indian Olympics, captured more than 30 medals in the 2-foot high kick, greased pole walk, arm pull, and other events, earning the title ''Mr. Olympics.''

The Alaska Sports Hall of Fame depicts an understanding that goes beyond the basic tenets of its own stated mission. It is a way to honor the Alaskan way of life and to depict Alaskan exceptionalism. Mark Schlereth, 2008 Alaska Sports Hall of Fame inductee and 3-time Super Bowl Champion, described the Alaskan bond as special and a true source of pride.

After the sweat, the injuries, the memories, the failures and accomplishments, the true value of sport goes far beyond the statues and medals. Sport brings friends and family together it can make teammates of complete strangers. It provides youth with positive role models, promotes healthy lifestyles, and teaches life skills.

The Alaska Sports Hall of Fame reminds us of the positive attributes of sport, but equally important is highlighting and respecting the Alaskan way of life. Events such as the Iditarod, the Great Alaska Shootout, and the World Eskimo-Indian Olympics showcase the great State of Alaska and who we are as a people.

There is so much to celebrate and commemorate in Alaska. The Alaska Sports Hall of Fame provides an opportunity to demonstrate excellence in athletic endeavors by exceptional Alaskans.●

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2105. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Ms. STABENOW for the Committee on Agriculture, Nutrition, and Forestry.

*Bruce J. Sherrick, of Illinois, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

*Chester John Culver, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

*Michael T. Scuse, of Delaware, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

*Michael T. Scuse, of Delaware, to be a Member of the Board of Directors of the Commodity Credit Corporation.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 2110. A bill to settle claims of the Northern Cheyenne Tribe by authorizing the Secretary of the Interior to convey mineral rights in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security; read the first time.

By Mr. BEGICH (for himself, Mr. GRAHAM, Mr. BROWN of Massachusetts, Mr. MANCHIN, Ms. MURKOWSKI, Mr. LEAHY, Ms. SNOWE, Ms. AYOTTE, Mrs. GILLIBRAND, Mr. TESTER, Mr. UDALL of New Mexico, Ms. KLOBUCHAR, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. CASEY, Mr. PRYOR, and Mr. GRASSLEY):

S. 2112. A bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents; to the Committee on Armed Services.

By Mrs. HAGAN:

S. 2113. A bill to empower the Food and Drug Administration to ensure a clear and effective pathway that will encourage innovative products to benefit patients and improve public health; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, and Mr. TESTER):

S. 2114. A bill to prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WICKER:

S. Res. 376. A resolution commemorating the 225th anniversary of the signing of the Constitution of the United States and recognizing the contributions of the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. PORTMAN, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. WICKER, Mr. BOOZMAN, Mr. DURBIN, Mrs. HUTCHISON, Mr. PRYOR, Mrs. MURRAY, Mr. REID, Mr. SCHUMER, and Mr. LEVIN):

S. Res. 377. A resolution recognizing the 50th anniversary of the historic achievement of John Herschel Glenn, Jr., in becoming the first United States astronaut to orbit the Earth; considered and agreed to.

By Ms. LANDRIEU (for herself, Mr. LUGAR, Ms. KLOBUCHAR, Mr. GRASSLEY, Mrs. GILLIBRAND, Mr. INHOFE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mrs. HUTCHISON, Mr. LEVIN, and Mr. NELSON of Nebraska):

S. Res. 378. A resolution expressing the sense of the Senate that children should have a safe, loving, nurturing, and permanent family and that it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care; considered and agreed to.

ADDITIONAL COSPONSORS

S. 82

At the request of Mr. JOHANNS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 82, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs, to repeal the sunset of the Patient Protection and Affordable Care Act with respect to increased dollar limitations for such credit and programs, and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final.

S. 296

At the request of Ms. KLOBUCHAR, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 501

At the request of Mr. THUNE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 501, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 641

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 641, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis within six years by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 645

At the request of Mr. SCHUMER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 645, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 1023

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1880

At the request of Mr. BARRASSO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1880, a bill to repeal the health care law's job-killing health insurance tax.

S. 1980

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1980, a bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

S. 2010

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2010, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 2051

At the request of Mr. REED, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2051, a bill to amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. BROWN) and the

Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

S. 2100

At the request of Mr. VITTER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2100, a bill to suspend sales of petroleum products from the Strategic Petroleum Reserve until certain conditions are met.

S. 2103

At the request of Mr. LEE, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 2103, a bill to amend title 18, United States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

S. 2105

At the request of Mr. WHITEHOUSE, his name was added as a cosponsor of S. 2105, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

S. RES. 80

At the request of Mr. WYDEN, his name was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 310

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the ''Year of the Girl'' and Congratulating Girl Scouts of the USA on its 100th anniversary.

AMENDMENT NO. 1520

At the request of Mr. BLUNT, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of amendment No. 1520 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1521

At the request of Mr. WICKER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1521 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1534

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1534 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1535

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1535 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1537

At the request of Mr. HOEVEN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1537 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1549

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1565

At the request of Mr. SESSIONS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 1565 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1566

At the request of Mr. SESSIONS, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 1566 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1582

At the request of Mr. DEMINT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 1582 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1591

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of amendment No. 1591 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1613

At the request of Mr. BEGICH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1617

At the request of Ms. KLOBUCHAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 1617 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security; read the first time.

Mr. LEAHY. Mr. President, today, I am pleased to introduce the Cyber Crime Protection Security Act, a bill to strengthen our Nation's cybercrime laws. Developing a comprehensive strategy for cybersecurity is one of the most pressing challenges facing our Nation today, and an issue that the Senate will tackle in the coming weeks. A legislative response to the growing threat of cyber crime must be a part of that conversation.

Protecting American consumers and businesses from cyber crime and other threats in cyberspace has long been a priority of the Senate Judiciary Committee. In September, the Committee favorably reported legislation which included a provision essentially identical to this bill as a part of the Personal Data Privacy and Security Act. Since then, I have worked closely with Senator GRASSLEY to advance cyber crime legislation that will have strong bipartisan support.

Cyber crime impacts all of us, regardless of political party or ideology. Recently, several Republican Senators stated the following in an opinion piece about the Senate's cybersecurity legislation: ''In addition, our nation's criminal laws must be updated to account for the growing number of cybercrimes. We support legislation to clarify and expand the Computer Fraud and Abuse Act—including increasing existing penalties, defining new offenses and clarifying the scope of current criminal conduct. These changes will ensure that our criminal laws keep pace with the ever-evolving threats posed by cybercriminals.'' I could not agree more. I hope that all Senators will support this bill and I urge the Senate to quickly pass this important legislation.

We simply cannot afford to ignore the growing threat of cyber crime. A study released by Symantec Corp estimates that the cost of cybercrime globally is $114 billion a year. During the past year, we have witnessed major data breaches at Sony, Epsilon, RSA, the International Monetary Fund, and Lockheed Martin, just to name a few. In addition, our Government computer networks have not been spared, as evidenced by the hacking incidents involving the websites of the Senate and Central Intelligence Agency.

The Cyber Crime Protection Security Act takes several important steps to combat cyber crime. First, the bill updates the Federal RICO statute to add violations of the Computer Fraud and

Abuse Act to the definition of racketeering activity, so that the Government can better prosecute organized criminal activity involving computer fraud. Second, the bill streamlines and enhances the penalty structure under the Computer Fraud and Abuse Act. To address cyber crime involving the trafficking of consumers' passwords, the bill also expands the scope of the offense for trafficking in passwords under title 18, United States Code, section 1030(a)(6) to include passwords used to access a protected Government or nongovernment computer, and to include any other means of unauthorized access to a Government computer.

In addition, the bill clarifies that both conspiracy and attempt to commit a computer hacking offense are subject to the same penalties as completed, substantive offenses, and the bill adds new forfeiture tools to help the Government recover the proceeds of illegal activity.

This legislation also strengthens the legal tools available to law enforcement to protect our nation's critical infrastructure, by adding a new criminal offense that would make it a felony to damage a computer that manages or controls national defense, national security, transportation, public health and safety, or other critical infrastructure systems or information. Lastly, the bill clarifies that relatively innocuous conduct, such as violating a terms of use agreement, should not be prosecuted under the Computer Fraud and Abuse Act.

The bill is strongly supported by the Department of Justice, which is on the front lines of the battle against cybercrime. In fact, the criminal law updates in this bill were a part of the cybersecurity proposal that President Obama delivered to Congress last May. We must give the dedicated prosecutors and investigators in our Government the tools that they need to address criminal activity in cyberspace.

To build a secure future for our Nation and its citizens in cyberspace, Congress must work together, across party lines and ideology, to address the dangers of cybercrime and other cyber threats. It is in that cooperative spirit that I urge all Senators to support this important cybercrime legislation.

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 2111

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cyber Crime Protection Security Act''.

SEC. 2. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030 (relating to fraud and related activity in connection with computers) if the act is a felony,'' before ''section 1084''.

SEC. 3. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

Section 1030(c) of title 18, United States Code, is amended to read as follows:

''(c) The punishment for an offense under subsection (a) or (b) of this section is—

''(1) a fine under this title or imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(1) of this section;

''(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than 3 years, or both, in the case of an offense under subsection (a)(2); or

''(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under paragraph (a)(2) of this section, if—

''(i) the offense was committed for purposes of commercial advantage or private financial gain;

''(ii) the offense was committed in the furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States, or of any State; or

''(iii) the value of the information obtained, or that would have been obtained if the offense was completed, exceeds $5,000;

''(3) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(3) of this section;

''(4) a fine under this title or imprisonment of not more than 20 years, or both, in the case of an offense under subsection (a)(4) of this section;

''(5)(A) except as provided in subparagraph (D), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A) of this section, if the offense caused—

''(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

''(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

''(iii) physical injury to any person;

''(iv) a threat to public health or safety;

''(v) damage affecting a computer used by, or on behalf of, an entity of the United States Government in furtherance of the administration of justice, national defense, or national security; or

''(vi) damage affecting 10 or more protected computers during any 1-year period;

''(B) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(B), if the offense caused a harm provided in clause (i) through (vi) of subparagraph (A) of this subsection;

''(C) if the offender attempts to cause or knowingly or recklessly causes death from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

''(D) a fine under this title, imprisonment for not more than 1 year, or both, for any other offense under subsection (a)(5);

''(6) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(6) of this section; or

''(7) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(7) of this section..''.

SEC. 4. TRAFFICKING IN PASSWORDS.

Section 1030(a) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

''(6) knowingly and with intent to defraud traffics (as defined in section 1029) in—

''(A) any password or similar information or means of access through which a protected computer as defined in subparagraphs (A) and (B) of subsection (e)(2) may be accessed without authorization; or

''(B) any means of access through which a protected computer as defined in subsection (e)(2)(A) may be accessed without authorization.''.

SEC. 5. CONSPIRACY AND ATTEMPTED COMPUTER FRAUD OFFENSES.

Section 1030(b) of title 18, United States Code, is amended by inserting ''for the completed offense'' after ''punished as provided''.

SEC. 6. CRIMINAL AND CIVIL FORFEITURE FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

Section 1030 of title 18, United States Code, is amended by striking subsections (i) and (j) and inserting the following:

''(i) CRIMINAL FORFEITURE.—

''(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

''(A) such person's interest in any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of such violation; and

''(B) any property, real or personal, constituting or derived from any gross proceeds, or any property traceable to such property, that such person obtained, directly or indirectly, as a result of such violation.

''(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property, and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

''(j) CIVIL FORFEITURE.—

''(1) The following shall be subject to forfeiture to the United States and no property right, real or personal, shall exist in them:

''(A) Any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of any violation of this section, or a conspiracy to violate this section.

''(B) Any property, real or personal, constituting or derived from any gross proceeds obtained directly or indirectly, or any property traceable to such property, as a result of the commission of any violation of this section, or a conspiracy to violate this section.

''(2) Seizures and forfeitures under this subsection shall be governed by the provisions in chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed on the Secretary of the Treasury under the customs laws described in section 981(d) of title 18, United States Code, shall be performed by such officers, agents and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General.''.

SEC. 7. DAMAGE TO CRITICAL INFRASTRUCTURE COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

''SEC. 1030A. AGGRAVATED DAMAGE TO A CRITICAL INFRASTRUCTURE COMPUTER.

''(a) DEFINITIONS.—In this section—

''(1) the terms 'computer' and 'damage' have the meanings given such terms in section 1030; and

''(2) the term 'critical infrastructure computer' means a computer that manages or

controls systems or assets vital to national defense, national security, national economic security, public health or safety, or any combination of those matters, whether publicly or privately owned or operated, including—

''(A) gas and oil production, storage, and delivery systems;

''(B) water supply systems;

''(C) telecommunication networks;

''(D) electrical power delivery systems;

''(E) finance and banking systems;

''(F) emergency services;

''(G) transportation systems and services; and

''(H) government operations that provide essential services to the public.

''(b) OFFENSE.—It shall be unlawful to, during and in relation to a felony violation of section 1030, intentionally cause or attempt to cause damage to a critical infrastructure computer, and such damage results in (or, in the case of an attempt, would, if completed have resulted in) the substantial impairment—

''(1) of the operation of the critical infrastructure computer; or

''(2) of the critical infrastructure associated with the computer.

''(c) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not less than 3 years nor more than 20 years, or both.

''(d) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

''(1) a court shall not place on probation any person convicted of a violation of this section;

''(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment, including any term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony violation section 1030;

''(3) in determining any term of imprisonment to be imposed for a felony violation of section 1030, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the United States Sentencing Commission pursuant to section 994 of title 28.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following:

''Sec. 1030A. Aggravated damage to a critical infrastructure computer.''.

SEC. 8. LIMITATION ON ACTIONS INVOLVING UNAUTHORIZED USE.

Section 1030(e)(6) of title 18, United States Code, is amended by striking ''alter;'' and inserting ''alter, but does not include access in violation of a contractual obligation or agreement, such as an acceptable use policy or terms of service agreement, with an Internet service provider, Internet website, or non-government employer, if such violation constitutes the sole basis for determining that access to a protected computer is unauthorized;''.

By Mrs. HAGAN:

S. 2113. A bill to empower the Food and Drug Administration to ensure a clear and effective pathway that will encourage innovative products to benefit patients and improve public health; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HAGAN. Mr. President, today I am proud to introduce the Transforming the Regulatory Environment to Accelerate Access to Treatments, TREAT, Act.

This bill empowers the Food and Drug Administration to ensure consistent processes and a clear and effective pathway that will encourage the development of innovative treatments to benefit patients, particularly subpopulations and those with rare diseases, and improve the public health.

Without question, the FDA plays a critical role in helping to ensure that new medicines are safe and effective. At the same time, by promoting investment in and development of innovative treatments for unmet medical needs, the FDA can positively influence our national strategy to identify and treat serious and life-threatening diseases and improve the quality of life for millions of Americans.

In order for FDA to accomplish this goal, however, Congress needs to give the agency the tools necessary to transcend existing barriers, reform its processes, and provide greater clarity, consistency, and transparency to industry.

The bill accomplishes this in three ways.

First, it provides the FDA with the authorities and tools that are reflective of the agency's responsibilities and that are necessary to ensure maximum operational excellence by updating FDA's mission statement and creating a management review board.

Second, it advances regulatory science and innovation within FDA to ensure that evaluations of innovative treatments, therapies, and diagnostics are conducted by those who have the best available knowledge. To do this, the bill creates a chief innovation officer and chief medical policy officers, and expands participation on advisory committees by those experts most familiar with the disease being considered.

Finally, the bill promotes the utilization of modern scientific tools and methodologies to ensure patients have timely access to innovative products by creating a clinical informatics coordinator, providing more information to drug sponsors when an application has not been approved, and enhancing and codifying the accelerated approval process.

In the nearly 2 decades since the accelerated approval mechanism was established by FDA to more expeditiously approve treatments, advances in medical sciences, including genomics, molecular biology, and bioinformatics, have provided scientists with an unprecedented understanding of the underlying biological mechanisms and pathogenesis of disease.

A new generation of modern, targeted, personalized medicines is currently under development to treat serious and life-threatening diseases. Some apply drug development strategies based on biomarkers or pharmacogenomics, predictive toxicology, clinical trial enrichment techniques, and novel clinical trial designs, such as adaptive clinical trials that can be altered based on observed patient outcomes in the interim.

In order to ensure these scientific advances are translated into treatments that benefit patients, Congress should allow FDA to implement a more effective process for the expedited development and review of innovative new medicines intended to address unmet medical needs for serious or life-threatening diseases or conditions.

FDA is already doing this, to some extent. However, application of the accelerated approval process has been somewhat limited, largely to HIV and oncology drugs, and inconsistently applied to other disease targets. For example, a 2011 report by the National Organization for Rare Disorders compared the approval process for 135 noncancer orphan therapies approved by FDA from 1983 through June 2010. The report found that 45 went through the conventional approval process; 32 were approved with some sort of administrative flexibility; and 58 were approved on a case-by-case flexibility process. This report illustrates that while FDA does have the authority to approve these treatments with some flexibility, there does not appear to be uniformity or consistency in employing this flexibility.

The TREAT Act allows FDA to tap into modern scientific advances by using a broad range of surrogate or clinical endpoints and modern scientific tools earlier in the drug development cycle, when appropriate, to approve treatments for patients. Employing these modern scientific tools may result in fewer, smaller, or shorter clinical trials for the intended patient population or targeted subpopulation without compromising or altering FDA's existing high standards for the approval of drugs.

It is the patients suffering from these serious and life-threatening diseases that benefit from expedited access to safe and effective innovative therapies. For the 30 million Americans living with rare diseases, new advances in science and medicine cannot come fast enough. That is why I am proud that this bill has the support of the National Organization for Rare Disorders (NORD) and Friends of Cancer Research. The TREAT Act provides FDA with the tools needed to modernize its processes and encourage the development of innovative products to benefit patients, particularly subpopulations and those with rare diseases.

I urge my other colleagues to join us in supporting this important bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 376—COMMEMORATING THE 225TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES AND RECOGNIZING THE CONTRIBUTIONS OF THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION AND THE NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. WICKER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 376

Whereas the American Revolution secured the independence of the United States of America and made possible the vibrant system of self-government of the United States;

Whereas the supporters of the American Revolution, through their vision and determination, enhanced the lives of countless individuals and made possible the system of equal justice, limited government, and the rule of law that exists in the United States;

Whereas the people who fought in the American Revolution made great sacrifices for their fledgling country;

Whereas the 55 delegates who attended the Constitutional Convention in Philadelphia, Pennsylvania 225 years ago, and the 39 delegates who signed the Constitution of the United States at the Constitutional Convention, irrevocably changed the course of history;

Whereas the Constitution of the United States, a revered and living document—

(1) provides important rights to every citizen of the United States;

(2) secures ''the Blessings of Liberty to ourselves and our Posterity''; and

(3) sets the standard of democracy for the world;

Whereas the delegates to the Constitutional Convention in 1787 established the imperative precedent of compromise;

Whereas the Constitution and the subsequent 27 amendments to the Constitution outline the freedoms and the principles of representative government that are as strong today as they were on that momentous occasion in 1787;

Whereas September 17, 2012, marks the 225th anniversary of the signing of the Constitution of the United States, which is the supreme law of the land and the document by which the people of the United States govern their great country;

Whereas, to venerate the immeasurable importance of the Constitution and the day on which the Constitution was signed, it is essential to continually educate people about, and celebrate, the principles and legacy of the Founding Fathers; and

Whereas members of organizations such as the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution play an important role in promoting patriotism, preserving the history of the United States, and educating the public about the rights and responsibilities of citizenship: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 225th anniversary of the signing of the Constitution of the United States on September 17, 2012, and remembers the sacrifices made by the people who made the signing possible; and

(2) applauds the continuing contributions made by the members, volunteers, and staff of historical, educational, and patriotic societies of the United States, such as the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution, in promoting patriotism and the values embodied in the Constitution of the United States.

SENATE RESOLUTION 377—RECOGNIZING THE 50TH ANNIVERSARY OF THE HISTORIC ACHIEVEMENT OF JOHN HERSCHEL GLENN, JR., IN BECOMING THE FIRST UNITED STATES ASTRONAUT TO ORBIT THE EARTH

Mr. BROWN of Ohio (for himself, Mr. PORTMAN, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. WICKER, Mr. BOOZMAN, Mr. DURBIN, Mrs. HUTCHISON, Mr. PRYOR, Mrs. MURRAY, Mr. REID of Nevada, Mr. SCHUMER, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 377

Whereas John Herschel Glenn, Jr. was born on July 18, 1921, in Cambridge, Ohio to parents John and Clara Glenn;

Whereas John Glenn grew up in New Concord, Ohio with his childhood sweetheart and future wife, Annie Castor, 150 miles east of Dayton, Ohio, the birthplace of the Wright brothers, who first took humankind into flight;

Whereas John Glenn enlisted in the Naval Aviation Cadet program shortly after the December 7, 1941, attack on Pearl Harbor, Hawaii, and was commissioned as an officer in the United States Marine Corps in 1943;

Whereas John Glenn received many honors for his military service, including the Distinguished Flying Cross on 6 occasions, the Air Medal with 18 Clusters, the Asiatic-Pacific Campaign Medal, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the National Defense Service Medal, and the Korean Service Medal;

Whereas, with the onset of the Cold War, the United States and the free world feared the intentions of the Soviet Union in space;

Whereas President Dwight D. Eisenhower asked the National Aeronautics and Space Administration (referred to in this preamble as ''NASA'') to find the most talented, patriotic, and selfless test pilots to participate in Project Mercury, the first human spaceflight program in the United States;

Whereas John Glenn and fellow candidates for NASA's Astronaut Corps underwent pressure suit, acceleration, vibration, heat, loud noise, psychiatric, personality, motivation, and aptitude tests at the Aeromedical Laboratory at the Wright Air Development Center in Dayton, Ohio;

Whereas John Glenn, Malcolm S. Carpenter, L. Gordon Cooper, Jr., Virgil I. ''Gus'' Grissom, Walter M. Shirra, Jr., Alan B. Shepard, Jr., and Donald K. Slayton were selected from among hundreds of other patriotic candidates to be named the original ''Mercury Seven'' astronauts;

Whereas Project Mercury was charged with the unprecedented responsibility of competing with the strides that the Soviet Union was making in space exploration;

Whereas the United States public viewed John Glenn and the Mercury Seven astronauts as men on the front line of the war not only for space supremacy but also, in many minds, for the survival of the United States;

Whereas John Glenn accurately captured the significance of the time when he later wrote that ''the world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold'';

Whereas the Project Mercury astronauts trained for their manned space flight missions in the Multi-Axis Space Training Inertial Facility at NASA's Research Center in Cleveland, Ohio;

Whereas Alan Shepard was chosen to pilot the first manned Project Mercury mission on *Freedom 7* on May 5, 1961, which proved that the United States was capable of successfully launching a person into suborbital flight;

Whereas Virgil Grissom was chosen to pilot the second manned Project Mercury mission on *Liberty Bell 7* and became the second United States astronaut to achieve suborbital flight on July 21, 1961;

Whereas the Soviet Union had successfully launched the spacecrafts *Lunar 2* and *Lunar 3* in 1959 before successfully launching and returning to Earth Major Yuri Gagarin, who completed a 108-minute single orbit around the Earth in 1961;

Whereas John Glenn was selected from among the Project Mercury astronauts to command the first United States capsule to orbit the Earth;

Whereas John Glenn, with the help of his children Dave and Lyn, named the first United States space capsule to orbit the Earth *Friendship 7*, re-emphasizing the peaceful intentions of the United States space exploration program;

Whereas John Glenn trained vigorously, working through 70 simulated missions and reacting to nearly 200 simulated system failures, to prepare to orbit the Earth and successfully complete the first manned orbital mission for the United States;

Whereas the work that John Glenn conducted on the cockpit layout, instrument panel design, and spacecraft controls in the Mercury spacecraft enhanced the design of *Friendship 7* and the ability of an astronaut to control *Friendship 7*, which proved useful during the mission;

Whereas, at 9:47 a.m. Eastern Standard Time on February 20, 1962, the Atlas 109D rocket boosters ignited and John Glenn and *Friendship 7* commenced liftoff at NASA's Space Center in Cape Canaveral, Florida;

Whereas John Glenn, aboard *Friendship 7*, became the first United States astronaut to orbit the Earth, orbiting 3 times and observing 3 sunrises, 3 sunsets, and the wonder of the universe in only 4 hours and 56 minutes;

Whereas, when John Glenn learned that the heat shield on *Friendship 7* had possibly become loose in orbit, compromising the successful completion of the space mission, Glenn bravely managed the reentry procedures and proved that a person can safely and successfully complete a NASA mission;

Whereas John Glenn successfully completed reentry into Earth, splashing down in the Atlantic Ocean at 2:43 p.m. Eastern Standard Time, east of Grand Turk Island at 21 degrees, 25 minutes North latitude and 68 degrees, 36 minutes West longitude, and was recovered by the USS *Noa*;

Whereas, in the context of the Cold War, the success of the *Friendship 7* flight restored the standing of the United States as the leading country in the race to space against the Soviet Union;

Whereas the completion of the inaugural orbit of the Earth by John Glenn validated NASA's manned space flight mission and secured the future missions of NASA's manned space capsules;

Whereas the people of the United States heralded John Glenn as the personification of heroism and dignity in an age of uncertainty and fear;

Whereas the press later described John Glenn as a man who embodied the noblest human qualities;

Whereas President John F. Kennedy echoed the belief held by John Glenn that the United States space program was not

just a scientific journey but also a source of inspiration and pride, saying, ''our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men'';

Whereas John Glenn is a patriot and space pioneer who encouraged the people of the United States to rightfully view NASA as an embodiment of the persistent quest of the people of the United States to expand their knowledge and explore frontiers;

Whereas, in retirement, John and Annie Glenn continued their public service by establishing the John Glenn School of Public Affairs at The Ohio State University, living up to the words of John Glenn, who said, ''If there is one thing I've learned in my years on this planet, it's that the happiest and most fulfilled people I've known are those who devoted themselves to something bigger and more profound than merely their own self-interest.''; and

Whereas, although 50 years have passed, the historic orbit of John Glenn around the Earth aboard *Friendship 7* remains a source of pride and honor for the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 50th anniversary of the landmark mission of John Herschel Glenn, Jr., in piloting the first manned orbital mission for the United States;

(2) recognizes the profound importance of the achievement of John Glenn as a catalyst for space exploration and scientific advancement in the United States; and

(3) honors the thousands of dedicated men and women of the National Aeronautics and Space Administration who worked on Project Mercury and ensured the success of the *Friendship 7* Mercury mission.

SENATE RESOLUTION 378—EXPRESSING THE SENSE OF THE SENATE THAT CHILDREN SHOULD HAVE A SAFE, LOVING, NURTURING, AND PERMANENT FAMILY AND THAT IT IS THE POLICY OF THE UNITED STATES THAT FAMILY REUNIFICATION, KINSHIP CARE, OR DOMESTIC AND INTERCOUNTRY ADOPTION PROMOTES PERMANENCY AND STABILITY TO A GREATER DEGREE THAN LONG-TERM INSTITUTIONALIZATION AND LONG-TERM, CONTINUALLY DISRUPTED FOSTER CARE

Ms. LANDRIEU (for herself, Mr. LUGAR, Ms. KLOBUCHAR, Mr. GRASSLEY, Mrs. GILLIBRAND, Mr. INHOFE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mrs. HUTCHISON, Mr. LEVIN, Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 378

Whereas the family is the basic unit of society and contributes to the emotional, financial, and material support essential for the healthy growth and development of children;

Whereas children without a family or connections to siblings and relatives or a permanent relationship with a caring adult are at risk of being homeless, growing up in substandard institutional care, and are vulnerable to sexual and labor exploitation and abuse;

Whereas research has shown that children who are abandoned, abused, or severely neglected can face significant risks that are costly to society, including lower individual lifetime earnings, poorer educational achievement, and higher consumption of health services, which in turn could lead to a greater risk of criminal activity and greater risk of incarceration;

Whereas there is scientific evidence that children deprived of a family, including connections with siblings, often experience trauma, which can have a detrimental impact on the development of a child;

Whereas some estimates show that there are approximately 18 million children in the world who have lost both parents and at least 2 million children in the world who are in institutional care;

Whereas there are approximately 408,000 children in the United States foster-care system and 107,000 of them are awaiting adoption;

Whereas within the current foster-care system, many children are overmedicated, housed in inadequate group homes, denied the ability to engage in age-appropriate activities, such as afterschool activities, and often denied access to their siblings or placement with a relative guardian due to insufficient efforts to locate family members;

Whereas thousands of children who ''age out'' of the foster-care system in the United States every year lack the security or support of a biological or adoptive family, connections with siblings and relatives, or a permanent relationship with a caring adult and struggle to secure affordable housing, health insurance, higher education, and adequate employment;

Whereas current governmental efforts to assist these highly vulnerable children in the United States and around the world do not include an effective strategy for securing a protective family, connections with siblings and relatives, or a permanent relationship with a caring adult for every child; and

Whereas while there have been several bipartisan laws enacted in the past several years that have made progress on a number of needed child-welfare reforms, much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) affirms that all children in the world, including those with special needs, deserve a safe, loving, nurturing, and permanent family, connections with siblings and relatives, or a permanent relationship with a caring adult;

(B) acknowledges that the United States Government can and should do more by working with the private sector, nonprofit organizations, and faith-based communities to implement cost effective strategies that connect children living outside of family care with a permanent, supportive family, or connections with siblings and relatives, or a permanent relationship with a caring adult;

(C) encourages States, counties, cities, and to the extent appropriate, other governments to invest resources in family preservation, reunification services, services to help older youth transition out of care with a connection to siblings, relatives or a caring adult, kinship adoption, domestic adoption, and intercountry adoption and post adoption strategies to ensure that more children in the United States are provided with safe, loving, and permanent family placements or a permanent relationship with a caring adult; and

(D) recognizes the United States Agency for International Development and the Department of State for recent efforts to develop a strategy for meeting the unique needs of children living outside of family care;

(2) it is the sense of the Senate that children should have a safe, loving, nurturing, and permanent family; and

(3) it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1618. Mr. BARRASSO (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1619. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1620. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1621. Ms. MURKOWSKI (for herself, Mr. FRANKEN, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1622. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1623. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1624. Mr. BENNET (for himself, Mr. MORAN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1625. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1626. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1627. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1628. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1629. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1630. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1631. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1632. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1633. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1634. Mr. REID proposed an amendment to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, supra.

SA 1635. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1636. Mr. REID proposed an amendment to amendment SA 1635 proposed by Mr. REID to the bill S. 1813, supra.

SA 1637. Mr. REID proposed an amendment to amendment SA 1636 proposed by Mr. REID to the amendment SA 1635 proposed by Mr. REID to the bill S. 1813, supra.

SA 1638. Mr. CORKER (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1639. Ms. KLOBUCHAR (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1640. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1641. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1642. Ms. SNOWE (for herself, Ms. KLOBUCHAR, and Mr. RUBIO) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1643. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1644. Ms. SNOWE (for herself, Mr. WHITEHOUSE, Ms. COLLINS, Mr. SANDERS, Mr. REED, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1645. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1646. Mr. BROWN, of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1647. Mr. BROWN, of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1648. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1649. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1650. Mrs. GILLIBRAND (for herself and Mr. SANDERS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1651. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1652. Mr. HARKIN (for himself, Mr. MORAN, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1653. Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1654. Mr. BOOZMAN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1655. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1656. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1657. Ms. CANTWELL (for herself and Mr. LUGAR) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1658. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1659. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1660. Ms. COLLINS (for herself, Mr. ALEXANDER, Mr. TOOMEY, Mr. PRYOR, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1661. Ms. KLOBUCHAR (for herself, Mr. BURR, Mrs. SHAHEEN, and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1662. Mr. NELSON, of Florida (for himself, Mr. SHELBY, Ms. LANDRIEU, Mr. VITTER, Mr. RUBIO, Mr. SESSIONS, Mr. COCHRAN, Mr. WICKER, Mrs. HUTCHISON, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1618. Mr. BARRASSO (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows;

At the end, add the following:

TITLE V—CEMENT SECTOR REGULATORY RELIEF

SEC. 5001. SHORT TITLE.

This title may be cited as the ''Cement Sector Regulatory Relief Act of 2011''.

SEC. 5002. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In lieu of the rules specified in subsection (b), and notwithstanding the date by which those rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (referred to in this title as the ''Administrator'') shall—

(1) propose regulations for the Portland cement manufacturing industry and Portland cement plants that are subject to any of the rules specified in subsection (b) that—

(A) establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identify nonhazardous secondary materials that, when used as fuels in combustion units of that industry and those plants, qualify as solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) for purposes of determining the extent to which the combustion units are required to meet the emission standards under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429); and

(2) promulgate final versions of those regulations by not later than—

(A) the date that is 15 months after the date of enactment of this Act; or

(B) such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—

(1) PORTLAND-SPECIFIC RULES.—The final rule entitled ''National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants'' (75 Fed. Reg. 54970 (September 9, 2010)) shall be—

(A) of no force or effect;

(B) treated as though the rule had never taken effect; and

(C) replaced in accordance with subsection (a).

(2) OTHER RULES.—

(A) IN GENERAL.—The final rules described in subparagraph (B), to the extent that those rules apply to the Portland cement manufacturing industry and Portland cement plants, shall be—

(i) of no force or effect;

(ii) treated as though the rules had never taken effect; and

(iii) replaced in accordance with subsection (a).

(B) DESCRIPTION OF RULES.—The final rules described in this subparagraph are—

(i) the final rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (76 Fed. Reg. 15704 (March 21, 2011)); and

(ii) the final rule entitled ''Identification of Non-Hazardous Secondary Materials That Are Solid Waste'' (76 Fed. Reg. 15456 (March 21, 2011)).

SEC. 5003. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section 5002(a), the Administrator—

(1) shall establish a date for compliance with standards and requirements under the regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for that compliance, shall take into consideration—

(A) the costs of achieving emission reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time necessary—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Administrator; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 5002(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying—

(1) the definition of the term ''new source'' under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)); or

(2) the definition of the term ''new solid waste incineration unit'' under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this Act restricts or otherwise affects paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. 5004. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid

Waste Disposal Act (42 U.S.C. 6901 et seq.), in promulgating regulations under section 5002(a) addressing the subject matter of the rules specified in section 5002(b)(2), the Administrator shall—

(1) adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' in the rule entitled ''Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material to be solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) only if—

(A) the material meets that definition of commercial and industrial waste; or

(B) if the material is a gas, the material meets that definition of contained gaseous material.

SEC. 5005. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating regulations under section 5002(a), the Administrator shall ensure, to the maximum extent practicable, that emission standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants covered by regulations applicable to the source category, taking into account—

(1) variability in actual source performance;

(2) source design;

(3) fuels;

(4) inputs;

(5) controls;

(6) ability to measure the pollutant emissions; and

(7) operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated under section 5002(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including work practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

SA 1619. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RAIL LINE RELOCATION PROJECTS.

Section 20154(i) of title 49, United States Code, is amended by striking ''2006 through 2009'' and inserting ''2012 through 2013''.

SA 1620. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROGRAM TO SECURE PUBLIC INVESTMENTS IN TRANSPORTATION INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) ASSET TRANSACTION.—The term ''asset transaction'' means—

(A) a concession agreement for a public transportation asset; or

(B) a contract for the sale or lease of a public transportation asset between the State or local government with jurisdiction over the public transportation asset and a private individual or entity.

(2) CONCESSION AGREEMENT.—The term ''concession agreement''—

(A) means an agreement entered into by a private individual or entity and a State or local government with jurisdiction over a public transportation asset to convey to the private individual or entity the right to manage, operate, and maintain the public transportation asset for a specific period of time in exchange for the authorization to impose and collect a toll or other user fee from a person for each use of the public transportation asset during that period; and

(B) does not include an agreement entered into by a State or local government and a private individual or entity for the construction of any new public transportation asset.

(3) PUBLIC TRANSPORTATION ASSET.—

(A) IN GENERAL.—The term ''public transportation asset'' means a transportation facility of any kind that was or is constructed, maintained, or upgraded before, on, or after the date of enactment of this Act using Federal funds—

(i)(I) the fair market value of which is more than $500,000,000, as determined by the Secretary; and

(II) that has received any Federal funding, as of the date on which the determination is made;

(ii) the fair market value of which is less than or equal to $500,000,000, as determined by the Secretary; and

(I) that has received $25,000,000 or more in Federal funding, as of the date on which the determination is made; or

(iii) in which a significant national pubic interest (such as interstate commerce, homeland security, public health, or the environment) is at stake, as determined by the Secretary.

(B) INCLUSIONS.—The term ''public transportation asset'' includes a transportation facility described in subparagraph (A) that is—

(i) a Federal-aid highway (as defined in section 101 of title 23, United States Code);

(ii) a highway or mass transit project constructed using amounts made available from the Highway Account or Mass Transit Account, respectively, of the Highway Trust Fund;

(iii) an air navigation facility (as defined in section 40102(a) of title 49, United States Code); or

(iv) a train station or multimodal station that receives a Federal grant, including any grant authorized under the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 122 Stat. 4907) or an amendment made by that Act.

(b) PROHIBITION ON SALES AND LEASES.—

(1) IN GENERAL.—A public transportation asset may not be the subject of any asset transaction unless—

(A) agreements are reached in accordance with paragraph (2);

(B)(i) the private individual or entity seeking the asset transaction enters into an agreement described in paragraph (3)(A)(i); and

(ii) the State or local government or other public sponsor seeking the asset transaction enters into an agreement described in paragraph (3)(A)(ii);

(C) the Secretary publishes a disclosure in accordance with paragraph (4); and

(D) the State or local government seeking the asset transaction provides for public notice and an opportunity to comment on the proposed asset transaction.

(2) SALE AND LEASE APPROVAL.—

(A) IN GENERAL.—A public transportation asset described in paragraph (1) may not be subject to an asset transaction unless—

(i) the State or local government or other public sponsor seeking the asset transaction for the public transportation asset pays to the Secretary an amount determined by the Secretary under subparagraph (B); and

(ii) the Secretary certifies that the required agreements described in paragraph (3) have been signed, and the terms of the agreements incorporated into the terms of the asset transaction, for the public transportation asset.

(B) DETERMINATION OF REPAYMENT AMOUNT.—The Secretary shall determine the amount that is required to be paid before an asset transaction may take place of a public transportation asset under this paragraph, taking into account, at a minimum—

(i) the total amount of Federal funds that have been expended to construct, maintain, or upgrade the public transportation asset;

(ii) the amount of Federal funding received by a State or local government based on inclusion of the public transportation asset in calculations using Federal funding formulas or for Federal block grants;

(iii) the reasonable depreciation of the public transportation asset, including the amount of Federal funds described in clause (i) that may be offset by that depreciation; and

(iv) the loss of Federal tax revenue from bonds relating to, and the tax consequences of depreciation of, the public transportation asset.

(3) AGREEMENTS.—

(A) IN GENERAL.—As a condition of any new or renewed asset transaction for a public transportation asset—

(i) the private individual or entity seeking the asset transaction shall enter into an agreement with the Secretary, which shall be incorporated into the terms of the asset transaction, under which the private individual or entity agrees—

(I) to disclose and eliminate any conflict of interest involving any party to the agreement;

(II)(aa) to adequately maintain the condition and performance of the public transportation asset during the term of the asset transaction; and

(bb) on the end of the term of the asset transaction, to return the public transportation asset to the applicable State or local government in a state of good repair;

(III) to disclose an estimated amount of tax benefits and financing transactions over the life of the lease resulting from the lease or sale of the public transportation asset;

(IV) to disclose anticipated changes in the workforce and wages, benefits, or rules over the life of the lease and an estimate of the amount of savings from those changes; and

(V) to provide an estimate of the revenue the transportation asset will produce for the private entity during the lease or sale period; and

(ii) the State or local government or other public sponsor seeking the asset transaction for the public transportation asset shall enter into an agreement with the Secretary, which shall be incorporated into the terms of the asset transaction, under which the State or local government or other public sponsor agrees—

(I) to pay to the Secretary the amount determined by the Secretary under paragraph (2)(B);

(II) to conduct an assessment of whether, and provide justification that, the asset transaction with the private entity would

represent a better public and financial benefit than a similar transaction using public funding or with a public (as opposed to private) entity, including an assessment of—

(aa) the loss of toll revenues and other user fees relating to the public transportation asset; and

(bb) any impacts on other public transportation assets in the vicinity of the public transportation asset covered by the asset transaction;

(III) that, if the private individual or entity enters into bankruptcy, becomes insolvent, or fails to comply with all terms and conditions of the asset transaction—

(aa) the asset transaction shall immediately terminate; and

(bb) the interest in the public transportation asset conveyed by the asset transaction will immediately revert to the public sponsor;

(IV) to provide an estimate of all increased tolls and other user fees that may be charged to persons using the public transportation asset during the term of the asset transaction;

(V) to disclose any plans the State or local government seeking the asset transaction has for up-front payments or concessions from the private individual or entity seeking the asset transaction;

(VI) that the Federal Government and the applicable State and local governments will retain respective authority and control over decisions regarding transportation planning and management; and

(VII) to prominently post or display the agreement on the website of the local government or public sponsor.

(B) TERM.—An agreement under this paragraph shall not exceed a reasonable term, as determined by the Secretary, in consultation with the relevant State or local government.

(4) PUBLICATION OF DISCLOSURE.—Not later than 90 days before the date on which an asset transaction covering a public transportation asset takes effect, the Secretary shall publish in the Federal Register a notice that contains—

(A) a copy of all agreements relating to the asset transaction between the Secretary and the public and private sponsors involved;

(B) a description of the total amount of Federal funds that have been expended as of the date of publication of the notice to construct, maintain, or upgrade the public transportation asset;

(C) the determination of the repayment amount under paragraph (2)(B) for the public transportation asset;

(D) the amount of Federal funding received by a State or local government based on inclusion of the public transportation asset in calculations using Federal funding formulas or for Federal block grants; and

(E) a certification that the asset transaction will not adversely impact the national public interest of the United States (including the interstate commerce, homeland security, public health, and environment of the United States).

(5) RENEWAL OF ASSET TRANSACTION.—An asset transaction that expires or terminates may not be renewed unless—

(A) the Secretary—

(i) calculates a new repayment amount under paragraph (2)(B) required for renewal, as the Secretary determines to be appropriate;

(ii) takes into consideration the impact of a renewed agreement on nearby public transportation assets; and

(iii) publishes a new disclosure for the renewed agreement in accordance with paragraph (4); and

(B) the State or local government seeking to renew the asset transaction—

(i) provides for public notice and an opportunity to comment on the proposed renewal;

(ii) pays to the Secretary the new amount calculated by the Secretary pursuant to subparagraph (A)(i); and

(iii) enters into a new agreement in accordance with paragraph (3) for the renewal.

(c) USE OF FUNDS BY SECRETARY.—Amounts received by the Secretary as a payment under paragraph (2)(A)(i) or (5)(B)(ii) of subsection (b) shall be available for use by the Secretary, without further appropriation, and shall remain available until expended for road, transit, rail, and aviation projects eligible for Federal funding under title 23, 49, or 53 of the United States Code.

(d) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate such regulations as may be necessary to implement this section.

(e) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress, and publish in the Federal Register, a report that describes each public transportation asset that is the subject of an asset transaction during the year covered by the report, including the total amount of Federal funds that were received by a State or local government to construct, maintain, or upgrade the public transportation asset as of the date on which the report is submitted.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) BUDGETARY EFFECTS.—The budgetary effects of this section, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this section, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 1621. Ms. MURKOWSKI (for herself, Mr. FRANKEN, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 210, strike line 5 and all that follows through page 218, line 20, and insert the following:

''(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary and the Secretary of the Interior shall promulgate or amend regulations governing the tribal transportation program only through the use of negotiated rulemaking procedures with tribal government representatives.

''(3) BASIS FOR FUNDING FORMULA.—

''(A) IN GENERAL.—After making the set asides authorized under subsections (a)(6), (c), (d), and (e), on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes only pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

''(B) TRIBAL HIGH PRIORITY PROJECTS.—The treatment of the High Priority Projects program as included in the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall remain in effect as in effect under that part on the date of enactment of this Act.

SA 1622. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division D, insert the following:

SEC. ___. HOLD HARMLESS.

No area in which a recipient of funding under chapter 53 of title 49, United States Code, issued grant anticipation bonds in reliance upon a provision of Federal law in effect on the day before the date of enactment of this Act that have maturity dates after the date of enactment of this Act shall receive an amount apportioned under section 5336 of title 49, United States Code, for fiscal year 2012 or 2013 that is less than an amount equal to 150 percent of the annual bonded debt service the recipient is obligated to pay pursuant to a federally approved grant anticipation bond sale.

SA 1623. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, strike lines 17 through 22 and insert the following:

(1) IN GENERAL.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872) is amended—

(A) in the first sentence, by striking ''and in subsections (c)(18) and (c)(20)'' and inserting '', in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)''; and

(B) in the second sentence, by striking ''that the segment'' and all that follows through the period and inserting ''that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code.''.

SA 1624. Mr. BENNET (for himself, Mr. MORAN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EXTENSION OF WIND ENERGY CREDIT.

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

SEC. _____. COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2020'' and inserting ''December 31, 2021''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 1625. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 463, strike lines 8 through 14.

SA 1626. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. _____. NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 25D(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—No credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SA 1627. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 3 and 4, insert the following:

''(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—

''(i) DEFINITION OF PRIVATIZED HIGHWAY.—In this subparagraph, the term 'privatized highway' means a highway subject to an agreement giving a private entity—

''(I) control over the operation of the highway; and

''(II) ownership over the toll revenues collected from the operation of the highway.

''(ii) ADJUSTMENT.—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

''(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

''(II) the percentage described in clause (iii).

''(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

''(I) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of privatized lane miles of National Highway System routes in a State; bears to

''(BB) the total number of all lane miles of National Highway System routes in the State; and

''(II) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of vehicle miles traveled on privatized lanes on National Highway System routes in the State; bears to

''(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

SA 1628. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

SEC. _____. EVACUATION ROUTES.

Each State shall give adequate consideration to the needs of evacuation routes in the State when allocating funds apportioned to the State under title 23, Unites States Code, for the construction of Federal-aid highways.

SA 1629. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON USE OF AMOUNTS.

None of the amounts appropriated or otherwise made available under this Act or an amendment made by this Act may be used to erect physical signage indicating that a project is funded under this Act.

SA 1630. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, line 19, insert ''(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))'' after ''104(b)(2)''.

On page 70, line 25, insert ''(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))'' after ''104(b)(2)''.

On page 127, line 18, insert ''(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))'' after ''104(b)(2)''.

SA 1631. Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. ___. INCLUSION OF STATE REPRESENTATIVES OF HEALTH AGENCIES IN CERTAIN PLANNING PROCESSES.

(a) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 148(a)(12)(A) of title 23, United States Code (as amended by section 1112), is further amended by striking clauses (viii) and (ix) and inserting the following:

''(viii) county transportation officials;

''(ix) State representatives of health agencies; and

''(x) other major Federal, State, tribal, and local safety stakeholders;''.

(b) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code (as amended by section 1201), is further amended—

(1) in subsection (g)(4)(A), by inserting ''health agencies,'' before ''environmental protection'';

(2) in subsection (h)(4)—

(A) in subparagraph (A), by inserting ''(including State representatives of health agencies)'' after ''parties''; and

(B) in subparagraph (B)(i), by inserting ''(including State representatives of health agencies)'' before ''that participate''; and

(3) in subsection (i)(7)(A), by inserting ''health agencies,'' after ''protection''.

(c) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 135 of title 23, United States Code (as amended by section 1202), is further amended—

(1) in subsection (c)(1), by inserting ''health agencies,'' after ''protection''; and

(2) in subsection (g)(1)(B), by inserting ''(including State representatives of health agencies)'' after ''parties''.

SA 1632. Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

SEC. ___. INCLUSION OF STATE REPRESENTATIVES OF NONMOTORIZED USERS IN CERTAIN PLANNING PROCESSES.

(a) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 148(a)(12)(A) of title 23, United States Code (as amended by section 1112), is further amended by striking clauses (viii) and (ix) and inserting the following:

''(viii) county transportation officials;

''(ix) State representatives of nonmotorized users; and

''(x) other major Federal, State, tribal, and local safety stakeholders;''.

(b) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code (as amended by section 1201), is further amended—

(1) in subsection (g)(4)(A), by inserting ''nonmotorized users,'' before ''environmental protection''; and

(2) in subsection (h)(4)—

(A) in subparagraph (A), by inserting ''(including State representatives of nonmotorized users)'' after ''parties''; and

(B) in subparagraph (B)(i), by inserting ''(including State representatives of nonmotorized users)'' before ''that participate''.

(c) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 135(g)(1)(B) of title 23, United States Code (as amended by section 1202), is further amended by inserting ''(including State representatives of nonmotorized users)'' after ''parties''.

SA 1633. Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end of the bill, add the following:

DIVISION B—PUBLIC TRANSPORTATION

SEC. 20001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Federal Public Transportation Act of 2012''.

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

Sec. 20001. Short title; table of contents.
Sec. 20002. Repeals.
Sec. 20003. Policies, purposes, and goals.
Sec. 20004. Definitions.
Sec. 20005. Metropolitan transportation planning.
Sec. 20006. Statewide and nonmetropolitan transportation planning.
Sec. 20007. Public Transportation Emergency Relief Program.
Sec. 20008. Urbanized area formula grants.
Sec. 20009. Clean fuel grant program.
Sec. 20010. Fixed guideway capital investment grants.
Sec. 20011. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
Sec. 20012. Formula grants for other than urbanized areas.
Sec. 20013. Research, development, demonstration, and deployment projects.
Sec. 20014. Technical assistance and standards development.
Sec. 20015. Bus testing facilities.
Sec. 20016. Public transportation workforce development and human resource programs.
Sec. 20017. General provisions.
Sec. 20018. Contract requirements.
Sec. 20019. Transit asset management.
Sec. 20020. Project management oversight.
Sec. 20021. Public transportation safety.
Sec. 20022. Alcohol and controlled substances testing.
Sec. 20023. Nondiscrimination.
Sec. 20024. Labor standards.
Sec. 20025. Administrative provisions.
Sec. 20026. National transit database.
Sec. 20027. Apportionment of appropriations for formula grants.
Sec. 20028. State of good repair grants.
Sec. 20029. Authorizations.
Sec. 20030. Apportionments based on growing States and high density States formula factors.
Sec. 20031. Technical and conforming amendments.

SEC. 20002. REPEALS.

(a) CHAPTER 53.—Chapter 53 of title 49, United States Code, is amended by striking sections 5316, 5317, 5321, 5324, 5328, and 5339.

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA–LU.—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA–LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA–LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA–LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note).

SEC. 20003. POLICIES, PURPOSES, AND GOALS.

Section 5301 of title 49, United States Code, is amended to read as follows:

''§ 5301. Policies, purposes, and goals

''(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

''(b) GENERAL PURPOSES.—The purposes of this chapter are to—

''(1) provide funding to support public transportation;

''(2) improve the development and delivery of capital projects;

''(3) initiate a new framework for improving the safety of public transportation systems;

''(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

''(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

''(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

''(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

''(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

''(9) promote the development of the public transportation workforce.

''(c) NATIONAL GOALS.—The goals of this chapter are to—

''(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

''(2) promote the environmental benefits of public transportation, including reduced reliance on fossil fuels, fewer harmful emissions, and lower public health expenditures;

''(3) improve the safety of public transportation systems;

''(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

''(5) provide an efficient and reliable alternative to congested roadways;

''(6) increase the affordability of transportation for all users; and

''(7) maximize economic development opportunities by—

''(A) connecting workers to jobs;

''(B) encouraging mixed-use, transit-oriented development; and

''(C) leveraging private investment and joint development.''.

SEC. 20004. DEFINITIONS.

Section 5302 of title 49, United States Code, is amended to read as follows:

''§ 5302. Definitions

''Except as otherwise specifically provided, in this chapter the following definitions apply:

''(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term 'associated transit improvement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

''(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

''(B) bus shelters;

''(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

''(D) pedestrian access and walkways;

''(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

''(F) signage; or

''(G) enhanced access for persons with disabilities to public transportation.

''(2) BUS RAPID TRANSIT SYSTEM.—The term 'bus rapid transit system' means a bus transit system—

''(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

''(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

''(i) defined stations;

''(ii) traffic signal priority for public transportation vehicles;

''(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

''(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

''(3) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating a bus;

''(C) remanufacturing a bus;

''(D) overhauling rail rolling stock;

''(E) preventive maintenance;

''(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

''(G) a joint development improvement that—

''(i) enhances economic development or incorporates private investment, such as commercial and residential development;

''(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

''(II) establishes new or enhanced coordination between public transportation and other transportation;

''(iii) provides a fair share of revenue that will be used for public transportation;

''(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

''(v) may include—

''(I) property acquisition;

''(II) demolition of existing structures;

''(III) site preparation;

''(IV) utilities;

''(V) building foundations;

''(VI) walkways;

''(VII) pedestrian and bicycle access to a public transportation facility;

''(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

''(IX) renovation and improvement of historic transportation facilities;

''(X) open space;

''(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

''(XII) facilities that incorporate community services such as daycare or health care;

''(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

''(XIV) construction of space for commercial uses; and

''(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

''(H) the introduction of new technology, through innovative and improved products, into public transportation;

''(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

''(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

''(K) mobility management—

''(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

''(ii) excluding operating public transportation services; or

''(L) associated capital maintenance, including—

''(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

''(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

''(4) DESIGNATED RECIPIENT.—The term 'designated recipient' means—

''(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

''(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

''(5) DISABILITY.—The term 'disability' has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

''(6) EMERGENCY REGULATION.—The term 'emergency regulation' means a regulation—

''(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

''(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

''(i) would injure seriously an important public interest;

''(ii) would frustrate substantially legislative policy and intent; or

''(iii) would damage seriously a person or class without serving an important public interest.

''(7) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

''(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

''(B) using rail;

''(C) using a fixed catenary system;

''(D) for a passenger ferry system; or

''(E) for a bus rapid transit system.

''(8) GOVERNOR.—The term 'Governor'—

''(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

''(B) includes the designee of the Governor.

''(9) LOCAL GOVERNMENTAL AUTHORITY.—The term 'local governmental authority' includes—

''(A) a political subdivision of a State;

''(B) an authority of at least 1 State or political subdivision of a State;

''(C) an Indian tribe; and

''(D) a public corporation, board, or commission established under the laws of a State.

''(10) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

''(11) NET PROJECT COST.—The term 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

''(12) NEW BUS MODEL.—The term 'new bus model' means a bus model (including a model using alternative fuel)—

''(A) that has not been used in public transportation in the United States before the date of production of the model; or

''(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

''(13) PUBLIC TRANSPORTATION.—The term 'public transportation'—

''(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

''(B) does not include—

''(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

''(ii) intercity bus service;

''(iii) charter bus service;

''(iv) school bus service;

''(v) sightseeing service;

''(vi) courtesy shuttle service for patrons of one or more specific establishments; or

''(vii) intra-terminal or intra-facility shuttle services.

''(14) REGULATION.—The term 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

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

''(16) SENIOR.—The term 'senior' means an individual who is 65 years of age or older.

''(17) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

''(18) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

''(19) TRANSIT.—The term 'transit' means public transportation.

''(20) URBAN AREA.—The term 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

''(21) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended to read as follows:

''§ 5303. Metropolitan transportation planning

''(a) POLICY.—It is in the national interest—

''(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

''(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

''(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

''(4) to maximize the effectiveness of transportation investments.

''(b) DEFINITIONS.—In this section and section 5304, the following definitions shall apply:

''(1) EXISTING MPO.—The term 'existing MPO' means a metropolitan planning organization that was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012.

''(2) LOCAL OFFICIAL.—The term 'local official' means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

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

''(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

''(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization established pursuant to subsection (c).

''(6) METROPOLITAN TRANSPORTATION PLAN.—The term 'metropolitan transportation plan' means a plan developed by a metropolitan planning organization under subsection (i).

''(7) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

''(8) NONMETROPOLITAN AREA.—

''(A) IN GENERAL.—The term 'nonmetropolitan area' means a geographical area outside the boundaries of a designated metropolitan planning area.

''(B) INCLUSIONS.—The term 'nonmetropolitan area' includes a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and a nonurbanized area.

''(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term 'nonmetropolitan planning organization' means an organization that—

''(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

''(B) is not designated as a tier I MPO or tier II MPO.

''(10) REGIONALLY SIGNIFICANT.—The term 'regionally significant', with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

''(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

''(B) would normally be included in the modeling of a transportation network of a metropolitan area.

''(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means a voluntary organization of local elected officials and representatives of local transportation systems that—

''(A) works in cooperation with the department of transportation (or equivalent entity) of a State to plan transportation networks and advise officials of the State on transportation planning; and

''(B) is located in a rural area—

''(i) with a population of not fewer than 5,000 individuals, as calculated according to the most recent decennial census; and

''(ii) that is not located in an area represented by a metropolitan planning organization.

''(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'statewide transportation improvement program' means a statewide transportation improvement program developed by a State under section 5304(g).

''(13) STATEWIDE TRANSPORTATION PLAN.—The term 'statewide transportation plan' means a plan developed by a State under section 5304(f).

''(14) TIER I MPO.—The term 'tier I MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

''(15) TIER II MPO.—The term 'tier II MPO' means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

''(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'transportation improvement program' means a program developed by a metropolitan planning organization under subsection (j).

''(17) URBANIZED AREA.—The term 'urbanized area' means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

''(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

''(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

''(B) in accordance with procedures established by applicable State or local law.

''(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

''(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

''(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, a metropolitan planning organization shall consist of—

''(A) elected local officials in the relevant metropolitan area;

''(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) appropriate State officials.

''(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

''(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

''(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

''(5) CONTINUING DESIGNATION.—A designation of an existing MPO—

''(A) for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

''(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

''(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

''(B) for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

''(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

''(ii)(I) the applicable Governor determines not later than 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

''(II) the Secretary approves the Governor's determination.

''(C) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

''(6) REDESIGNATION.—

''(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

''(i) the applicable Governor; and

''(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

''(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

''(7) DESIGNATION OF MULTIPLE MPOS.—

''(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

''(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

''(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

''(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

''(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

''(2) INCLUDED AREA.—Each metropolitan planning area—

''(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

''(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

''(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

''(4) NONATTAINMENT AND MAINTENANCE AREAS.—

''(A) EXISTING METROPOLITAN PLANNING AREAS.—

''(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

''(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(7).

''(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the applicable metropolitan planning area—

''(i) shall be established in accordance with subsection (c)(1);

''(ii) shall encompass the areas described in paragraph (2)(A);

''(iii) may encompass the areas described in paragraph (2)(B); and

''(iv) may address any appropriate nonattainment area or maintenance area.

''(e) REQUIREMENTS.—

''(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

''(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the metropolitan planning area; and

''(B) an integral part of an intermodal transportation system for the applicable State and the United States.

''(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(4) TIERING.—

''(A) TIER I MPOS.—

''(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

''(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

''(II) the Secretary determines the metropolitan planning organization—

''(aa) meets the minimum technical requirements under clause (iv); and

''(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) though (j).

''(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

''(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

''(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

''(B) TIER II MPOS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

''(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

''(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

''(II) include—

''(aa) only the staff resources necessary to operate the metropolitan planning organization; and

''(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

''(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

''(I) be designated as a tier II MPO; and

''(II) follow the processes under subsection (k).

''(C) CONSOLIDATION.—

''(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

''(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

''(f) COORDINATION IN MULTISTATE AREAS.—

''(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

''(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

''(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

''(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

''(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

''(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

''(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

''(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

''(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation

plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

''(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

''(i) recipients of assistance under sections 202, 203, and 204 of title 23;

''(ii) recipients of assistance under this title;

''(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

''(h) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

''(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

''(B) PERFORMANCE TARGETS.—

''(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

''(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(C) TIMING.—Each metropolitan planning organization shall establish or adopt the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation;

''(v) the congestion mitigation and air quality performance plan, where applicable;

''(vi) the national freight strategic plan; and

''(vii) the statewide transportation plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

''(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

''(i) is developed in consultation with all interested parties; and

''(ii) provides that all interested parties have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

''(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

''(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

''(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

''(i) a nonattainment area; or

''(ii) a maintenance area.

''(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

''(A) be in a form that the Secretary determines to be appropriate;

''(B) have a term of not less than 20 years; and

''(C) contain, at a minimum—

''(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

''(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

''(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

''(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

''(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

''(aa) the projects included in the transportation improvement program; and

''(bb) the projects that have been removed from the previous transportation improvement program; and

''(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

''(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

''(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

''(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

''(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(ix) an optional illustrative list of projects containing investments that—

''(I) are not included in the metropolitan transportation plan; but

''(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

''(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

''(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

''(3) SCENARIO DEVELOPMENT.—

''(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

''(B) COMPONENTS OF SCENARIOS.—The scenarios—

''(i) shall include potential regional investment strategies for the planning horizon;

''(ii) shall include assumed distribution of population and employment;

''(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance targets identified in subsection (h)(2);

''(iv) may include a scenario that improves the baseline conditions for as many of the performance targets under subsection (h)(2) as possible;

''(v) may include a revenue constrained scenario based on total revenues reasonably expected to be available over the 20-year planning period and assumed population and employment; and

''(vi) may include estimated costs and potential revenues available to support each scenario.

''(C) METRICS.—In addition to the performance targets identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

''(i) Congestion and mobility, including transportation use by mode.

''(ii) Freight movement.

''(iii) Safety.

''(iv) Efficiency and costs to taxpayers.

''(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

''(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan; and

''(iv) each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

''(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

''(B) submitted for informational purposes to the applicable Governor.

''(7) CONSULTATION.—

''(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

''(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

''(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

''(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

''(i) contains projects consistent with the current metropolitan transportation plan;

''(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

''(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

''(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

''(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

''(ii) approved by the applicable Governor.

''(2) CONTENTS.—

''(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the performance targets described in subsection (h)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program; and

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

''(B) PROJECTS UNDER CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

''(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

''(6) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

''(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

''(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

''(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

''(7) PUBLICATION.—

''(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

''(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

''(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

''(A) the complexity of transportation needs in the area; and

''(B) the technical capacity of the metropolitan planning organization.

''(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

''(A) addresses the performance targets described in subsection (h)(2); and

''(B) demonstrates progress on the achievement of those performance targets.

''(l) CERTIFICATION.—

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

''(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

''(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

''(3) DELEGATION OF AUTHORITY.—The Secretary may—

''(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

''(B) make the certification under paragraph (1) in consultation with the State.

''(4) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

''(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

''(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

''(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

''(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the metropolitan planning organization—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for

single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

''(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (d).

''(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

''(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) of this title shall be available to carry out this section.

''(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.''.

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

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

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

(E) identification of—

(i) partners;

(ii) availability of and authority for funding; and

(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

Section 5304 of title 49, United States Code, is amended to read as follows:

''§ 5304. Statewide and nonmetropolitan transportation planning

''(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

''(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

''(C) NONMETROPOLITAN AREAS.—Each State shall coordinate with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

''(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the State; and

''(B) an integral part of an intermodal transportation system for the United States.

''(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(b) COORDINATION AND CONSULTATION.—

''(1) IN GENERAL.—Each State shall—

''(A) coordinate planning carried out under this section with—

''(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

''(ii) statewide trade and economic development planning activities and related multistate planning efforts;

''(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

''(C) coordinate planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

''(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) MULTISTATE AREAS.—

''(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

''(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

''(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

''(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

''(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

''(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

''(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

''(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

''(A) recipients of assistance under sections 202, 203, and 204 of title 23;

''(B) recipients of assistance under this chapter;

''(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(d) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

''(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

''(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

''(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

''(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation; and

''(v) the national freight strategic plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

''(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

''(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(e) COORDINATION AND CONSULTATION.—

''(1) METROPOLITAN AREAS.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 5303—

''(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

''(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

''(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

''(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in coordination with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

''(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

''(A) the tribal government; and

''(B) the Secretary of the Interior.

''(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

''(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

''(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

''(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

''(i) Federal, State, tribal, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(f) STATEWIDE TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

''(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

''(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the 'outer years period'), a statewide transportation plan—

''(i) may include identification of future transportation facilities; and

''(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

''(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

''(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

''(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

''(II) the revenues necessary to support the projects;

''(ii) include, in such form as the Secretary determines to be appropriate, a description of—

''(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

''(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

''(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

''(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

''(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

''(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

''(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

''(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

''(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(IX) an optional illustrative list of projects containing investments that—

''(aa) are not included in the statewide transportation plan; but

''(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

''(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

''(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

''(iii) be updated by the State not less frequently than once every 5 years.

''(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

''(A) be prepared by each State to support the statewide transportation plan; and

''(B) contain a description of—

''(i) the projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan;

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project; and

''(v) aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands, for the outer years period of the statewide transportation plan.

''(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

''(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

''(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

''(i) includes projects consistent with the statewide transportation plan;

''(ii) reflects the investment priorities established in the statewide transportation plan; and

''(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

''(C) OTHER REQUIREMENTS.—

''(i) IN GENERAL.—A statewide transportation improvement program shall—

''(I) cover a period of not less than 4 years; and

''(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

''(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

''(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

''(I) consistent with the statewide transportation plan developed under this section for the State;

''(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

''(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) CONTENTS.—

''(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

''(i) the project or project phase; and

''(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the statewide transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each State to support the statewide transportation improvement program; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program; and

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

''(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

''(5) PUBLICATION.—

''(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

''(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out by the State), in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

''(7) APPROVAL BY SECRETARY.—

''(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

''(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

''(8) MODIFICATIONS TO PROJECT PRIORITY.—Approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

''(h) CERTIFICATION.—

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

''(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

''(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

''(3) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this chapter and title 23.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

''(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

''(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

''(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

''(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the State—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each State.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(j) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) shall be available to carry out this section.

''(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.''.

SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Section 5306 of title 49, United States Code, is amended to read as follows:

''§ 5306. Public transportation emergency relief program

''(a) DEFINITION.—In this section the following definitions shall apply:

''(1) ELIGIBLE OPERATING COSTS.—The term 'eligible operating costs' means costs relating to—

''(A) evacuation services;

''(B) rescue operations;

''(C) temporary public transportation service; or

''(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

''(2) EMERGENCY.—The term 'emergency' means a natural disaster affecting a wide

area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

''(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

''(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

''(b) GENERAL AUTHORITY.—

''(1) CAPITAL ASSISTANCE.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency.

''(2) OPERATING ASSISTANCE.—Of the funds appropriated to carry out this section, the Secretary may make grants and enter into contracts or other agreements for the eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

''(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

''(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

''(c) COORDINATION OF EMERGENCY FUNDS.—

''(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available—

''(A) under this chapter; or

''(B) for the same purposes as authorized under this section by any other branch of the Government, including the Federal Emergency Management Agency, or a State agency, local governmental entity, organization, or person.

''(2) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

''(d) INTERAGENCY TRANSFERS.—Amounts that are made available for emergency purposes to any other agency of the Government, including the Federal Emergency Management Agency, and that are eligible to be expended for purposes authorized under this section may be transferred to and administered by the Secretary under this section.

''(e) INTERAGENCY AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall enter into an interagency agreement with the Secretary of Homeland Security which shall provide for the means by which the Department of Transportation, including the Federal Transit Administration, and the Department of Homeland Security, including the Federal Emergency Management Agency, shall cooperate in administering emergency relief for public transportation.

''(2) CONTENTS.—The interagency agreement under paragraph (1) shall provide that funds made available to the Federal Emergency Management Agency for emergency relief for public transportation shall be transferred to the Secretary to carry out this section, to the maximum extent possible.

''(f) GRANT REQUIREMENTS.—A grant awarded under this section shall be subject to the terms and conditions the Secretary determines are necessary.

''(g) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

''(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

''(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under paragraph (2).''.

SEC. 20008. URBANIZED AREA FORMULA GRANTS.

Section 5307 of title 49, United States Code, is amended to read as follows:

''§ 5307. Urbanized area formula grants

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section for—

''(A) capital projects;

''(B) planning; and

''(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

''(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

''(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

''(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

''(3) TEMPORARY AND TARGETED ASSISTANCE.—

''(A) ELIGIBILITY.—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

''(i) a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census; and

''(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

''(I) greater than 7 percent; and

''(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

''(B) AWARD OF GRANT.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

''(ii) ADDITIONAL YEAR.—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

''(iii) EXCLUSION PERIOD.—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

''(C) LIMITATION.—

''(i) FIRST FISCAL YEAR.—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

''(ii) SECOND AND THIRD FISCAL YEARS.—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

''(D) PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

''(E) CERTIFICATION.—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

''(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

''(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

''(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

''(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good repair, assure safety, or replace obsolete technology.

''(b) ACCESS TO JOBS PROJECTS.—

''(1) IN GENERAL.—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

''(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

''(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

''(ii) promoting public transportation by low-income workers, including the use of

public transportation by workers with non-traditional work schedules;

''(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

''(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

''(B) a transportation project designed to support the use of public transportation including—

''(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

''(ii) guaranteed ride home programs;

''(iii) bicycle storage facilities; and

''(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

''(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

''(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

''(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

''(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

''(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(A) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this subsection.

''(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

''(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

''(1) make available to the public information on amounts available to the recipient under this section;

''(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

''(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

''(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

''(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

''(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

''(7) make the final program of projects available to the public.

''(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

''(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

''(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

''(B) has or will have satisfactory continuing control over the use of equipment and facilities;

''(C) will maintain equipment and facilities;

''(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

''(i) senior;

''(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

''(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

''(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

''(F) has complied with subsection (c) of this section;

''(G) has available and will provide the required amounts as provided by subsection (e) of this section;

''(H) will comply with sections 5303 and 5304;

''(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

''(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

''(ii) has decided that the expenditure for security projects is not necessary;

''(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

''(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

''(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

''(L) will comply with section 5329(d); and

''(2) the Secretary accepts the certification.

''(e) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

''(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

''(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

''(A) in cash from non-Government sources other than revenues from providing public transportation services;

''(B) from revenues from the sale of advertising and concessions;

''(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

''(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

''(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

''(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

''(A) the recipient applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

''(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

''(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

''(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

''(3) FINANCING COSTS.—

''(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

''(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

''(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(g) REVIEWS, AUDITS, AND EVALUATIONS.—

''(1) ANNUAL REVIEW.—

''(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

''(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

''(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

''(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

''(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

''(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

''(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

''(i) PASSENGER FERRY GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

''(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

''(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, $10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.''.

SEC. 20009. CLEAN FUEL GRANT PROGRAM.

Section 5308 of title 49, United States Code, is amended to read as follows:

''§ 5308. Clean fuel grant program

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

''(1) CLEAN FUEL BUS.—The term 'clean fuel bus' means a bus that is a clean fuel vehicle.

''(2) CLEAN FUEL VEHICLE.—The term 'clean fuel vehicle' means a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle.

''(3) DIRECT CARBON EMISSIONS.—The term 'direct carbon emissions' means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

''(4) ELIGIBLE AREA.—The term 'eligible area' means an area that is—

''(A) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

''(B) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

''(5) ELIGIBLE PROJECT.—The term 'eligible project' means a project or program of projects in an eligible area for—

''(A) acquiring or leasing clean fuel vehicles;

''(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

''(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

''(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

''(6) RECIPIENT.—The term 'recipient' means—

''(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

''(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

''(b) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this section.

''(c) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

''(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

''(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

''(1) not less than 65 percent shall be made available to fund eligible projects relating to clean fuel buses; and

''(2) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for clean fuel buses.

''(e) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(f) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

''(1) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

''(2) that remain unobligated at the end of the period described in paragraph (1) shall be added to the amount made available to an eligible project in the following fiscal year.''.

SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

''§ 5309. Fixed guideway capital investment grants

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

''(1) APPLICANT.—The term 'applicant' means a State or local governmental authority that applies for a grant under this section.

''(2) BUS RAPID TRANSIT PROJECT.—The term 'bus rapid transit project' means a single route bus capital project—

''(A) a majority of which operates in a separated right-of-way dedicated for public transportation use during peak periods;

''(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

''(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

''(i) defined stations;

''(ii) traffic signal priority for public transportation vehicles;

''(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

''(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

''(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term 'core capacity improvement project' means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.

''(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means—

''(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

''(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

''(5) PROGRAM OF INTERRELATED PROJECTS.—The term 'program of interrelated projects' means the simultaneous development of—

''(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

''(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

''(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

''(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

''(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate.

''(c) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

''(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

''(B) the applicant has, or will have—

''(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

''(ii) satisfactory continuing control over the use of the equipment or facilities; and

''(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

''(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

''(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed guideway capital project, or core capacity improvement project, if—

''(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

''(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

''(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

''(d) NEW FIXED GUIDEWAY GRANTS.—

''(1) PROJECT DEVELOPMENT PHASE.—

''(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

''(i) the applicant—

''(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

''(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

''(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

''(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

''(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

''(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

''(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

''(I) a reasonable plan for completing the activities required under this paragraph; and

''(II) an estimated time period within which the applicant will complete such activities.

''(2) ENGINEERING PHASE.—

''(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

''(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(ii) is adopted into the metropolitan transportation plan required under section 5303;

''(iii) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider;

''(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

''(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

''(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

''(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

''(ii) population density and current public transportation ridership in the transportation corridor.

''(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

''(1) PROJECT DEVELOPMENT PHASE.—

''(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

''(i) the applicant—

''(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

''(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

''(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

''(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

''(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

''(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

''(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

''(I) a reasonable plan for completing the activities required under this paragraph; and

''(II) an estimated time period within which the applicant will complete such activities.

''(2) ENGINEERING PHASE.—

''(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

''(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

''(ii) is adopted into the metropolitan transportation plan required under section 5303;

''(iii) is in a corridor that is—

''(I) at or over capacity; or

''(II) projected to be at or over capacity within the next 5 years;

''(iv) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

''(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

''(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

''(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

''(ii) whether the project will adequately address the capacity concerns in a corridor;

''(iii) whether the project will improve interconnectivity among existing systems; and

''(iv) whether the project will improve environmental outcomes.

''(f) FINANCING SOURCES.—

''(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

''(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

''(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

''(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

''(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

''(B) existing grant commitments;

''(C) the degree to which financing sources are dedicated to the proposed purposes;

''(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

''(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

''(g) PROJECT ADVANCEMENT AND RATINGS.—

''(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

''(A) the project meets the applicable requirements under this section; and

''(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

''(2) RATINGS.—

''(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

''(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

''(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

''(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

''(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

''(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

''(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a 'medium' rating in order to advance the project from one phase to another.

''(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

''(A) the share of the cost of the project to be provided under this section does not exceed—

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

''(ii) 50 percent of the total cost of the project;

''(B) the applicant requests the use of the warrants;

''(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

''(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

''(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

''(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

''(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

''(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

''(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

''(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

''(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

''(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(h) PROGRAMS OF INTERRELATED PROJECTS.—

''(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

''(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

''(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

''(B) the project is adopted into the metropolitan transportation plan required under section 5303;

''(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

''(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

''(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

''(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

''(3) PROJECT ADVANCEMENT AND RATINGS.—

''(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

''(B) RATINGS.—

''(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

''(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

''(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a 'medium' rating in order to advance the program of interrelated projects from one phase to another.

''(4) ANNUAL REVIEW.—

''(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

''(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

''(i) evidence of continued adequate funding; and

''(ii) an estimated time frame for completing the program of interrelated projects.

''(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

''(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

''(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

''(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

''(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

''(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

''(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

''(i) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTERS OF INTENT.—

''(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall

be sufficient to complete at least an operable segment.

''(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

''(2) FULL FUNDING GRANT AGREEMENTS.—

''(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

''(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

''(C) TERMS.—A full funding grant agreement shall—

''(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

''(ii) establish the maximum amount of Federal financial assistance for the project;

''(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(D) SPECIAL FINANCIAL RULES.—

''(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

''(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

''(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

''(E) BEFORE AND AFTER STUDY.—

''(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

''(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

''(II) evaluates the consistency of predicted and actual project characteristics and performance; and

''(III) identifies reasons for differences between predicted and actual outcomes.

''(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

''(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

''(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

''(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

''(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

''(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

''(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

''(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

''(3) EARLY SYSTEMS WORK AGREEMENTS.—

''(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) CONTENTS.—

''(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

''(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

''(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

''(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

''(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

''(4) LIMITATION ON AMOUNTS.—

''(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

''(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

''(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

''(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for the project shall not exceed 80 percent of the net capital project cost.

''(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

''(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

''(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

''(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

''(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital

project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

''(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

''(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

''(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(l) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

''(A) the State or local governmental authority applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) FINANCING COSTS.—

''(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

''(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

''(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(m) AVAILABILITY OF AMOUNTS.—

''(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

''(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

''(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

''(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

''(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

''(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

''(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

''(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

''(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

''(A) conduct an annual review of—

''(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

''(ii) the Secretary's implementation of such processes and procedures; and

''(B) report to Congress on the results of such review by May 31 of each year.''.

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term ''program'' means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term ''recipient'' means a recipient of funding under chapter 53 of title 49, United States Code.

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

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) SELECTION CRITERIA.—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) BEFORE AND AFTER STUDY AND REPORT.—

(A) STUDY REQUIRED.—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) SUBMISSION OF REPORT.—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

Section 5310 of title 49, United States Code, is amended to read as follows:

''§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

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

''(1) RECIPIENT.—The term 'recipient' means a designated recipient or a State that receives a grant under this section directly.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section to recipients for—

''(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

''(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

''(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

''(2) LIMITATIONS FOR CAPITAL PROJECTS.—

''(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

''(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A)

may allocate the amounts provided under the grant to—

''(i) a nonprofit organization; or

''(ii) a State or local governmental authority that—

''(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

''(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

''(3) ADMINISTRATIVE EXPENSES.—

''(A) IN GENERAL.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(B) GOVERNMENT SHARE OF COSTS.—The Government share of the costs of administering a program carried out using funds under this section shall be 100 percent.

''(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

''(5) COORDINATION.—

''(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

''(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(ii) participate in the planning for the transportation services described in clause (i).

''(6) PROGRAM OF PROJECTS.—

''(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

''(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

''(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

''(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

''(c) APPORTIONMENT AND TRANSFERS.—

''(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

''(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

''(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

''(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

''(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

''(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

''(C) OTHER THAN URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

''(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

''(2) AREAS SERVED BY PROJECTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B)—

''(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

''(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

''(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

''(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

''(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

''(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

''(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

''(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

''(d) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

''(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

''(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated or otherwise made available—

''(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

''(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

''(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

''(e) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

''(2) CERTIFICATION REQUIREMENTS.—

''(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

''(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

''(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

''(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies.

''(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

''(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

''(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

''(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

''(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

''(1) the recipient in possession of the facility or equipment consents to the transfer; and

''(2) the facility or equipment will continue to be used as required under this section.

''(h) PERFORMANCE MEASURES.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

''(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues

a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assistance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

''(3) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

''(A) the progress of the recipient toward meeting the performance targets established under paragraph (2) for that fiscal year; and

''(B) the performance targets established by the recipient for the subsequent fiscal year.''.

SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311 of title 49, United States Code, is amended to read as follows:

''§ 5311. Formula grants for other than urbanized areas

''(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

''(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

''(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

''(B) public transportation capital projects;

''(C) operating costs of equipment and facilities for use in public transportation; and

''(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

''(2) STATE PROGRAM.—

''(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

''(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

''(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

''(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

''(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

''(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

''(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

''(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

''(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

''(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

''(A) total annual revenue;

''(B) sources of revenue;

''(C) total annual operating costs;

''(D) total annual capital costs;

''(E) fleet size and type, and related facilities;

''(F) vehicle revenue miles; and

''(G) ridership.

''(c) APPORTIONMENTS.—

''(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

''(A) $10,000,000 shall be distributed on a competitive basis by the Secretary.

''(B) $20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

''(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'Appalachian region' has the same meaning as in section 14102 of title 40; and

''(ii) the term 'eligible recipient' means a State that participates in a program established under subtitle IV of title 40.

''(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

''(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

''(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

''(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

''(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

''(3) REMAINING AMOUNTS.—

''(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

''(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

''(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

''(ii) LAND AREA.—

''(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

''(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

''(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

''(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

''(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

''(v) MAXIMUM APPORTIONMENT.—No State shall receive—

''(I) more than 5 percent of the amount apportioned under clause (ii); or

''(II) more than 5 percent of the amount apportioned under clause (iii).

''(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

''(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

''(f) INTERCITY BUS TRANSPORTATION.—

''(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

''(A) planning and marketing for intercity bus transportation;

''(B) capital grants for intercity bus shelters;

''(C) joint-use stops and depots;

''(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

''(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

''(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

''(g) ACCESS TO JOBS PROJECTS.—

''(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry out a program to develop and maintain job access projects. Eligible projects may include—

''(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

''(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

''(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

''(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

''(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

''(B) transportation projects designed to support the use of public transportation including—

''(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

''(ii) guaranteed ride home programs;

''(iii) bicycle storage facilities; and

''(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

''(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

''(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

''(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

''(C) to the maximum extent feasible, services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies; and

''(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

''(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

''(h) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

''(2) OPERATING ASSISTANCE.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

''(3) REMAINDER.—The remainder of net project costs—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

''(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

''(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

''(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

''(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

''(j) RELATIONSHIP TO OTHER LAWS.—

''(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

''(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

''(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

''(1) APPORTIONMENT.—

''(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

''(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

''(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

''(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

''(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

''(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

''(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term 'low-income individual' means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

''(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.''.

SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

Section 5312 of title 49, United States Code, is amended to read as follows:

''§ 5312. Research, development, demonstration, and deployment projects

''(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

''(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

''(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

''(A) departments, agencies, and instrumentalities of the Government;

''(B) State and local governmental entities;

''(C) providers of public transportation;

''(D) private or non-profit organizations;

''(E) institutions of higher education; and

''(F) technical and community colleges.

''(3) APPLICATION.—

''(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

''(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

''(i) a statement of purpose detailing the need being addressed;

''(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

''(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

''(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

''(A) providing more effective and efficient public transportation service, including services to—

''(i) seniors;

''(ii) individuals with disabilities; and

''(iii) low-income individuals;

''(B) mobility management and improvements and travel management systems;

''(C) data and communication system advancements;

''(D) system capacity, including—

''(i) train control;

''(ii) capacity improvements; and

''(iii) performance management;

''(E) capital and operating efficiencies;

''(F) planning and forecasting modeling and simulation;

''(G) advanced vehicle design;

''(H) advancements in vehicle technology;

''(I) asset maintenance and repair systems advancement;

''(J) construction and project management;

''(K) alternative fuels;

''(L) the environment and energy efficiency;

''(M) safety improvements; or

''(N) any other area that the Secretary determines is important to advance the interests of public transportation.

''(c) INNOVATION AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

''(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

''(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;

''(B) planning and forecasting modeling and simulation;

''(C) capital and operating efficiencies;

''(D) advanced vehicle design;

''(E) advancements in vehicle technology;

''(F) the environment and energy efficiency;

''(G) system capacity, including train control and capacity improvements; or

''(H) any other area that the Secretary determines is important to advance the interests of public transportation.

''(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

''(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

''(2) PARTICIPANTS.—An entity described in this paragraph is—

''(A) an entity described in subsection (a)(2); or

''(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

''(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

''(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

''(B) the implementation of research and technology development to advance the interests of public transportation.

''(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

''(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

''(1) a description of each project that received assistance under this section during the preceding fiscal year;

''(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

''(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

''(f) GOVERNMENT SHARE OF COSTS.—

''(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

''(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

''(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.''.

SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.

Section 5314 of title 49, United States Code, is amended to read as follows:

''§ 5314. Technical assistance and standards development

''(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

''(A) more effectively and efficiently provide public transportation service;

''(B) administer funds received under this chapter in compliance with Federal law; and

''(C) improve public transportation.

''(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

''(A) technical assistance; and

''(B) the development of standards and best practices by the public transportation industry.

''(b) TECHNICAL ASSISTANCE CENTERS.—

''(1) DEFINITION.—In this subsection, the term 'eligible entity' means a nonprofit organization, an institution of higher education, or a technical or community college.

''(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

''(A) the development of tools and guidance; and

''(B) the dissemination of best practices.

''(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

''(A) Human services transportation coordination, including—

''(i) transportation for seniors;

''(ii) transportation for individuals with disabilities; and

''(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

''(B) Transit-oriented development.

''(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

''(D) Financing mechanisms, including—

''(i) public-private partnerships;

''(ii) bonding; and

''(iii) State and local capacity building.

''(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

''(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

''(A) the demonstrated subject matter expertise of the eligible entity; and

''(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

''(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

''(c) GOVERNMENT SHARE OF COSTS.—

''(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

''(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.''.

SEC. 20015. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended to read as follows:

''§ 5318. Bus testing facilities

''(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities

for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

''(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

''(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

''(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

''(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

''(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a) shall not have a financial interest in the outcome of the testing carried out at the facility.

''(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if—

''(1) a bus of that model has been tested at a facility described in subsection (a); and

''(2) the bus tested under paragraph (1) met—

''(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

''(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).''.

SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.

Section 5322 of title 49, United States Code, is amended to read as follows:

''§ 5322. Public transportation workforce development and human resource programs

''(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

''(1) educate and train employees;

''(2) develop the public transportation workforce through career outreach and preparation;

''(3) develop a curriculum for workforce development;

''(4) conduct outreach programs to increase minority and female employment in public transportation;

''(5) conduct research on public transportation personnel and training needs;

''(6) provide training and assistance for minority business opportunities;

''(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

''(8) address a current or projected workforce shortage in an area that requires technical expertise.

''(b) FUNDING.—

''(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

''(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

''(A) has an adequate workforce development program; or

''(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

''(c) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

''(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

''(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

''(A) are geographically diverse;

''(B) address the workforce and human resources needs of large public transportation providers;

''(C) address the workforce and human resources needs of small public transportation providers;

''(D) address the workforce and human resources needs of urban public transportation providers;

''(E) address the workforce and human resources needs of rural public transportation providers;

''(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

''(G) target areas with high rates of unemployment; and

''(H) address current or projected workforce shortages in areas that require technical expertise.

''(d) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

''(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.''.

SEC. 20017. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

''§ 5323. General provisions

''(a) INTERESTS IN PROPERTY.—

''(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

''(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

''(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

''(C) just compensation under State or local law will be paid to the company for its franchise or property.

''(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

''(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

''(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

''(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(d) CORRIDOR PRESERVATION.—

''(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

''(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

''(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

''(2) VIOLATIONS.—

''(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

''(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

''(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

''(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

''(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

''(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for

the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

''(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

''(g) SCHOOLBUS TRANSPORTATION.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

''(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

''(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

''(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

''(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

''(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

''(1) pay ordinary governmental or nonproject operating expenses; or

''(2) support a procurement that uses an exclusionary or discriminatory specification.

''(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

''(k) BUY AMERICA.—

''(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

''(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

''(A) applying paragraph (1) would be inconsistent with the public interest;

''(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

''(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

''(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

''(ii) final assembly of the rolling stock has occurred in the United States; or

''(D) including domestic material will increase the cost of the overall project by more than 25 percent.

''(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

''(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

''(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

''(ii) provide the public with a reasonable period of time for notice and comment.

''(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

''(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

''(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

''(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

''(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

''(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

''(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

''(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

''(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

''(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

''(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

''(l) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(2) be included in the planning for those services.

''(m) RELATIONSHIP TO OTHER LAWS.—

''(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

''(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

''(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

''(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

''(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that

receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

''(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

''(1) the incidental use does not interfere with the recipient's public transportation operations;

''(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

''(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

''(4) private entities pay all applicable excise taxes on fuel.

''(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

''(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

''(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.''.

SEC. 20018. CONTRACT REQUIREMENTS.

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (h), by striking ''Federal Public Transportation Act of 2005'' and inserting ''Federal Public Transportation Act of 2012'';

(2) in subsection (j)(2)(C), by striking '', including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2)''; and

(3) by adding at the end the following:

''(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.''.

SEC. 20019. TRANSIT ASSET MANAGEMENT.

Section 5326 of title 49, United States Code, is amended to read as follows:

''§ 5326. Transit asset management

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

''(1) CAPITAL ASSET.—The term 'capital asset' includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

''(2) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

''(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

''(B) the recipient certifies complies with the rule issued under this section.

''(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term 'transit asset management system' means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

''(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

''(1) a definition of the term 'state of good repair' that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

''(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

''(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

''(4) an analytical process or decision support tool for use by public transportation systems that—

''(A) allows for the estimation of capital investment needs of such systems over time; and

''(B) assists with asset investment prioritization by such systems; and

''(5) technical assistance to recipients of Federal financial assistance under this chapter.

''(c) PERFORMANCE MEASURES AND TARGETS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

''(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

''(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

''(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

''(B) the performance targets established by the recipient for the subsequent fiscal year.

''(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).''.

SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''United States'' and all that follows through ''Secretary of Transportation'' and inserting the following: ''Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan''; and

(B) in paragraph (12), by striking ''each month'' and inserting ''quarterly'';

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

''(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the construction sites and records of the recipient when reasonably necessary.'';

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking ''subsection (c) of this section'' and inserting ''section 5338(g)''; and

(B) in paragraph (2)—

(i) by striking ''preliminary engineering stage'' and inserting ''project development phase''; and

(ii) by striking ''another stage'' and inserting ''another phase''.

SEC. 20021. PUBLIC TRANSPORTATION SAFETY.

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

''§ 5329. Public transportation safety program

''(a) DEFINITION.—In this section, the term 'recipient' means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

''(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

''(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

''(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

''(A) safety performance criteria for all modes of public transportation;

''(B) the definition of the term 'state of good repair' established under section 5326(b);

''(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

''(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

''(ii) to the extent practicable, take into consideration—

''(I) relevant recommendations of the National Transportation Safety Board; and

''(II) recommendations of, and best practices standards developed by, the public transportation industry; and

''(D) a public transportation safety certification training program, as described in subsection (c).

''(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

''(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

''(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

''(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the

Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

''(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

''(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

''(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

''(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

''(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

''(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

''(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

''(i) the completion of a safety training program; and

''(ii) continuing safety education and training.

''(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

''(e) STATE SAFETY OVERSIGHT PROGRAM.—

''(1) APPLICABILITY.—This subsection applies only to eligible States.

''(2) DEFINITION.—In this subsection, the term 'eligible State' means a State that has—

''(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

''(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

''(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

''(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

''(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

''(C) establishes a State safety oversight agency;

''(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

''(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

''(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

''(4) STATE SAFETY OVERSIGHT AGENCY.—

''(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

''(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

''(ii) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

''(iii) does not fund, promote, or provide public transportation services;

''(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

''(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

''(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

''(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

''(viii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

''(I) the Federal Transit Administration;

''(II) the Governor of the eligible State; and

''(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

''(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

''(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

''(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

''(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

''(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

''(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

''(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

''(7) GRANTS.—

''(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

''(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

''(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

''(B) DETERMINATION BY SECRETARY.—

''(i) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

''(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

''(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

''(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

''(C) GOVERNMENT SHARE.—

''(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

''(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

''(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

''(I) any Federal funds;

''(II) any funds received from a public transportation agency; or

''(III) any revenues earned by a public transportation agency.

''(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program established under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

''(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

''(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

''(B) audits carried out by the Secretary.

''(9) INADEQUATE PROGRAM.—

''(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has

become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

''(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or withdraw approval of the State safety oversight program; and

''(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

''(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

''(i) withhold funds available under this section in an amount determined by the Secretary; or

''(ii) provide written notice of withdrawal of State safety oversight program approval.

''(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(ii), the Secretary shall provide oversight of the rail fixed guideway systems in an eligible State until the State submits a State safety oversight program approved by the Secretary.

''(D) RESTORATION.—

''(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

''(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

''(10) FEDERAL OVERSIGHT.—The Secretary shall—

''(A) oversee the implementation of each State safety oversight program under this subsection;

''(B) audit the operations of each State safety oversight agency at least once triennially; and

''(C) issue rules to carry out this subsection.

''(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

''(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

''(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

''(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

''(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

''(B) the Attorney General—

''(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

''(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

''(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

''(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

''(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

''(7) issue rules to carry out this section.

''(g) ENFORCEMENT ACTIONS.—

''(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

''(A) issuing directives;

''(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

''(C) imposing more frequent reporting requirements;

''(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

''(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

''(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

''(2) USE OR WITHHOLDING OF FUNDS.—

''(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

''(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

''(i) written notice of a violation and the amount proposed to be withheld; and

''(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

''(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

''(D) RESTORATION.—

''(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

''(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

''(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

''(3) CIVIL PENALTIES.—

''(A) IMPOSITION OF CIVIL PENALTIES.—

''(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

''(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

''(II) the recipient continues to be in violation of Federal safety law.

''(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

''(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

''(i) written notice of any violation and the penalty proposed to be imposed; and

''(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

''(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

''(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

''(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

''(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

''(A) for appropriate injunctive relief to ensure compliance with this section;

''(B) to collect a civil penalty imposed under paragraph (1)(F); and

''(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

''(h) COST-BENEFIT ANALYSIS.—

''(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

''(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

''(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

''(j) PREEMPTION OF STATE LAW.—

''(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to public transportation safety shall be nationally uniform to the extent practicable.

''(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

''(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation,

or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

''(A) has a safety benefit;

''(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

''(C) does not unreasonably burden interstate commerce.

''(4) ACTIONS UNDER STATE LAW.—

''(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

''(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

''(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

''(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

''(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

''(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

''(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that—

''(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

''(2) describes the effect on public transportation safety of activities carried out using grants under this section.''.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term ''highway route'' means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

''(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section;''.

SEC. 20023. NONDISCRIMINATION.

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''creed'' and inserting ''religion''; and

(B) by inserting ''disability,'' after ''sex,''; and

(2) in subsection (d)(3), by striking ''and'' and inserting ''or''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

SEC. 20024. LABOR STANDARDS.

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)'' each place that term appears and inserting ''sections 5307, 5308, 5309, 5311, and 5337''; and

(2) in paragraph (5), by inserting ''of Labor'' after ''Secretary''.

SEC. 20025. ADMINISTRATIVE PROVISIONS.

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking ''under sections 5307 and 5309-5311 of this title'' and inserting ''that receives Federal financial assistance under this chapter'';

(2) in subsection (b)(1)—

(A) by inserting after ''emergency,'' the following: ''or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States,''; and

(B) by striking ''chapter, nor may the Secretary'' and inserting ''chapter. The Secretary may not'';

(3) in subsection (c)(4), by striking ''section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)'' and inserting ''subsection'';

(4) in subsection (h)(3), by striking ''another'' and inserting ''any other'';

(5) in subsection (i)(1), by striking ''title 23 shall'' and inserting ''title 23 may'';

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

SEC. 20026. NATIONAL TRANSIT DATABASE.

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

''(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

''(1) the causes of a reportable incident, as defined by the Secretary; and

''(2) a transit asset inventory or condition assessment conducted by the recipient.''.

SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 of title 49, United States Code, is amended to read as follows:

''§ 5336. Apportionment of appropriations for formula grants

''(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

''(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

''(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

''(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

''(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

''(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, 'fixed guideway vehicle revenue miles' and 'fixed guideway directional route miles' include passenger ferry operations directly or under contract by the designated recipient.

''(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

''(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

''(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

''(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger

miles traveled for each dollar of operating cost in an area; divided by

''(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

''(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

''(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

''(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

''(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

''(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

''(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

''(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

''(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

''(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

''(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

''(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

''(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

''(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

''(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

''(d) DATE OF APPORTIONMENT.—The Secretary shall—

''(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

''(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

''(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

''(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

''(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

''(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

''(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

''(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

''(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

''(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

''(1) $35,000,000 shall be set aside to carry out section 5307(i);

''(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

''(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

''(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

''(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

''(1) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) ELIGIBLE AREA.—The term 'eligible area' means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

''(B) PERFORMANCE CATEGORY.—The term 'performance category' means each of the following:

''(i) Passenger miles traveled per vehicle revenue mile.

''(ii) Passenger miles traveled per vehicle revenue hour.

''(iii) Vehicle revenue miles per capita.

''(iv) Vehicle revenue hours per capita.

''(v) Passenger miles traveled per capita.

''(vi) Passengers per capita.

''(2) APPORTIONMENT.—

''(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

''(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

''(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

''(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

''(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

''(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

''(A) the number of eligible low-income individuals in each such urbanized area; bears to

''(B) the number of eligible low-income individuals in all such urbanized areas.

''(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

''(A) the number of eligible low-income individuals in each such urbanized area; bears to

''(B) the number of eligible low-income individuals in all such urbanized areas.''.

SEC. 20028. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended to read as follows:

''§ 5337. State of good repair grants

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

''(1) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

''(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

''(B) using rail;

''(C) using a fixed catenary system;

''(D) for a passenger ferry system; or

''(E) for a bus rapid transit system.

''(2) STATE.—The term 'State' means the 50 States, the District of Columbia, and Puerto Rico.

''(3) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

''(4) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

''(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

''(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

''(b) GENERAL AUTHORITY.—

''(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

''(A) rolling stock;

''(B) track;

''(C) line equipment and structures;

''(D) signals and communications;

''(E) power equipment and substations;

''(F) passenger stations and terminals;

''(G) security equipment and systems;

''(H) maintenance facilities and equipment;

''(I) operational support equipment, including computer hardware and software;

''(J) development and implementation of a transit asset management plan; and

''(K) other replacement and rehabilitation projects the Secretary determines appropriate.

''(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

''(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

''(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), $1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

''(2) AREA SHARE.—

''(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

''(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term 'fixed guideway' under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

''(C) RECIPIENT.—For purposes of this paragraph, the term 'recipient' means an entity that received funding under this section, as in effect for fiscal year 2011.

''(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

''(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

''(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

''(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

''(4) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

''(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

''(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

''(6) RECEIVING APPORTIONMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the designated recipient for the urbanized area in which the system operates.

''(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

''(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

''(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

''(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

''(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

''(1) DEFINITION.—For purposes of this subsection, the term 'fixed guideway motorbus' means public transportation that is provided on a facility with access for other high-occupancy vehicles.

''(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), $112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

''(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

''(A) IN GENERAL.—$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

''(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus vehicle revenue miles attributable to all areas.

''(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus directional route miles attributable to all areas.

''(4) SPECIAL RULE FOR FIXED GUIDEWAY MOTORBUS.—

''(A) IN GENERAL.—$52,500,000 of the amount described in paragraph (2) shall be apportioned—

''(i) in accordance with this paragraph; and

''(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

''(B) TERRITORIES.—Of the amount described in subparagraph (A), $500,000 shall be distributed among the territories, as determined by the Secretary.

''(C) STATES.—Of the amount described in subparagraph (A), each State shall receive $1,000,000.

''(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

''(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway motorbus vehicle revenue miles or fixed guideway motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.''.

SEC. 20029. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

''§ 5338. Authorizations

''(a) FORMULA GRANTS.—

''(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal

Public Transportation Act of 2012, $8,360,565,000 for each of fiscal years 2012 and 2013.

''(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

''(A) $124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

''(B) $20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

''(C) $4,756,161,500 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

''(D) $65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than $8,500,000 shall be used to carry out activities under section 5312;

''(E) $248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

''(F) $591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than $30,000,000 shall be available to carry out section 5311(c)(1) and $20,000,000 shall be available to carry out section 5311(c)(2);

''(G) $34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

''(H) $6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

''(I) $4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

''(J) $5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

''(K) $2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

''(L) $3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

''(M) $1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

''(N) $511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

''(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

''(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, $1,955,000,000 for each of fiscal years 2012 and 2013.

''(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, $26,900,000 for each of fiscal years 2012 and 2013.

''(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), $7,463,000 for each of fiscal years 2012 and 2013.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $108,350,000 for each of fiscal years 2012 and 2013.

''(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $10,000,000 shall be available to carry out section 5329.

''(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $1,000,000 shall be available to carry out section 5326.

''(g) OVERSIGHT.—

''(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

''(A) 0.5 percent of amounts made available to carry out section 5305.

''(B) 0.75 percent of amounts made available to carry out section 5307.

''(C) 1 percent of amounts made available to carry out section 5309.

''(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

''(E) 0.5 percent of amounts made available to carry out section 5310.

''(F) 0.5 percent of amounts made available to carry out section 5311.

''(G) 0.5 percent of amounts made available to carry out section 5320.

''(H) 0.75 percent of amounts made available to carry out section 5337(c).

''(2) ACTIVITIES.—The activities described in this paragraph are as follows:

''(A) Activities to oversee the construction of a major capital project.

''(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

''(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

''(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

''(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

''(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

''(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

''(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

''(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.''.

SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.

Section 5340 of title 49, United States Code, is amended to read as follows:

''§ 5340. Apportionments based on growing States and high density States formula factors

''(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

''(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

''(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

''(2) 50 percent to States and urbanized areas in accordance with subsection (d).

''(c) GROWING STATE APPORTIONMENTS.—

''(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

''(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

''(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

''(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

''(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

''(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

''(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

''(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

''(A) the total land area of the State (in square miles); multiplied by

''(B) 370; multiplied by

''(C)(i) the population of the State in urbanized areas; divided by

''(ii) the total population of the State.

''(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

''(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to

the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

''(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. For multistate urbanized areas, the Secretary shall suballocate funds made available under paragraph (4) to each State's part of the multistate urbanized area in proportion to the State's share of population of the multistate urbanized area. Amounts apportioned to each urbanized area shall be made available for grants under section 5307.''.

SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking ''sections 5303, 5304, and 5306'' and inserting ''sections 5303 and 5304'';

(2) in subsection (d), by striking ''sections 5303 and 5306'' each place that term appears and inserting ''section 5303'';

(3) in subsection (e)(1)(A), by striking ''sections 5304, 5306, 5315, and 5322'' and inserting ''section 5304'';

(4) in subsection (f)—

(A) in the heading, by striking ''GOVERNMENT'S'' and inserting ''GOVERNMENT''; and

(B) by striking ''Government's'' and inserting ''Government''; and

(5) in subsection (g), by striking ''section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012'' and inserting ''section 5338(a)(2)(A) for a fiscal year''.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking ''subsections (a)(5)(C)(iii) and (d)(1) of section 5338'' and inserting section ''5338(a)(2)(H)''; and

(2) in the second sentence, by striking ''of Transportation''.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking ''sections 5307(e), 5309(h), and 5311(g) of this title'' and inserting ''sections 5307(e), 5309(k), and 5311(h)''; and

(2) by striking ''of the United States'' and inserting ''made by the''.

(d) SECTION 5325.—Section 5325 of title 49, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking ''title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)'' and inserting ''the Federal Acquisition Regulation, or any successor thereto''; and

(2) in subsection (e), by striking ''Government financial assistance'' and inserting ''Federal financial assistance''.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking ''of Transportation''.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking ''sections 3141-3144'' and inserting ''sections 3141 through 3144''.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''; and

(B) in paragraph (1), by striking ''Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives'';

(2) in subsection (d), by striking ''of Transportation'';

(3) in subsection (e), by striking ''of Transportation'';

(4) in subsection (f), by striking ''of Transportation'';

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking ''of Transportation''; and

(B) by striking ''subsection (a)(3) or (4) of this section'' and inserting ''paragraph (3) or (4) of subsection (a)'';

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of Transportation''; and

(B) in paragraph (2), by striking ''of this section'';

(7) in subsection (i)(1), by striking ''of Transportation''; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking ''Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives''.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking ''of Transportation''.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

''Sec.
''5301. Policies, purposes, and goals.
''5302. Definitions.
''5303. Metropolitan transportation planning.
''5304. Statewide and nonmetropolitan transportation planning.
''5305. Planning programs.
''5306. Public transportation emergency relief program.
''5307. Urbanized area formula grants.
''5308. Clean fuel grant program.
''5309. Fixed guideway capital investment grants.
''5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
''5311. Formula grants for other than urbanized areas.
''5312. Research, development, demonstration, and deployment projects.
''5313. Transit cooperative research program.
''5314. Technical assistance and standards development.
''5315. National Transit Institute.
''[5316. Repealed.]
''[5317. Repealed.]
''5318. Bus testing facilities.
''5319. Bicycle facilities.
''5320. Alternative transportation in parks and public lands.
''[5321. Repealed.]
''5322. Public transportation workforce development and human resource programs.
''5323. General provisions.
''[5324. Repealed.]
''5325. Contract requirements.
''5326. Transit asset management.
''5327. Project management oversight.
''[5328. Repealed.]
''5329. Public transportation safety program.
''5330. State safety oversight.
''5331. Alcohol and controlled substances testing.
''5332. Nondiscrimination.
''5333. Labor standards.
''5334. Administrative provisions.
''5335. National transit database.
''5336. Apportionment of appropriations for formula grants.
''5337. State of good repair grants.
''5338. Authorizations.
''[5339. Repealed.]
''5340. Apportionments based on growing States and high density States formula factors.''.

DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012

SEC. 31001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Motor Vehicle and Highway Safety Improvement Act of 2012'' or ''Mariah's Act''.

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

DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

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In this title, the term ''Secretary'' means the Secretary of Transportation.

Subtitle A—Highway Safety

SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

(A) $243,000,000 for fiscal year 2012; and

(B) $243,000,000 for fiscal year 2013.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) $130,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(5) IMPAIRED DRIVING COUNTERMEASURES.—For carrying out section 410 of title 23, United States Code—

(A) $139,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(6) DISTRACTED DRIVING GRANTS.—For carrying out section 411 of title 23, United States Code—

(A) $39,000,000 for fiscal year 2012; and

(B) $39,000,000 for fiscal year 2013.

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

(A) $5,000,000 for fiscal year 2012; and

(B) $5,000,000 for fiscal year 2013.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $37,000,000 for fiscal year 2012; and

(B) $37,000,000 for fiscal year 2013.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $6,000,000 for fiscal year 2012; and

(B) $6,000,000 for fiscal year 2013.

(10) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—

(A) $25,581,280 for fiscal year 2012; and

(B) $25,862,674 for fiscal year 2013.

(11) DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.—For carrying out section 413 of title 23, United States Code—

(A) $12,000,000 for fiscal year 2012; and

(B) $12,000,000 for fiscal year 2013.

(12) STATE GRADUATED DRIVER LICENSING LAWS.—For carrying out section 414 of title 23, United States Code—

(A) $22,000,000 for fiscal year 2012; and

(B) $22,000,000 for fiscal year 2013.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—

(1) shall only be used to carry out such program; and

(2) may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) MAINTENANCE OF EFFORT.—

(1) REQUIREMENT.—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs described in such sections at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.

(2) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts made available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to $5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

SEC. 31102. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS INCLUDED.—Section 402(a) of title 23, United States Code, is amended to read as follows:

''(a) PROGRAM REQUIRED.—

''(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

''(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

''(A) include programs—

''(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

''(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

''(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

''(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

''(v) to reduce injuries and deaths resulting from accidents involving school buses;

''(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

''(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

''(B) improve driver performance, including—

''(i) driver education;

''(ii) driver testing to determine proficiency to operate motor vehicles; and

''(iii) driver examinations (physical, mental, and driver licensing);

''(C) improve pedestrian performance and bicycle safety;

''(D) include provisions for—

''(i) an effective record system of accidents (including resulting injuries and deaths);

''(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

''(iii) vehicle registration, operation, and inspection; and

''(iv) emergency services; and

''(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.''.

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

(3) by inserting after subparagraph (D) the following:

''(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;''; and

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting ''and high-visibility law enforcement mobilizations coordinated by the Secretary'' after ''mobilizations'';

(B) in clause (iii), by striking ''and'' at the end;

(C) in clause (iv), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).''.

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking ''(c) Funds authorized'' and inserting the following:

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Funds authorized'';

(2) by striking ''Such funds'' and inserting the following:

''(2) APPORTIONMENT.—Except for amounts identified in subsection (l) and section 403(e), funds described in paragraph (1)'';

(3) by striking ''The Secretary shall not'' and all that follows through ''subsection, a highway safety program'' and inserting ''A highway safety program'';

(4) by inserting ''A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.'' after ''in every State.'';

(5) by striking ''50 per centum'' and inserting ''20 percent''; and

(6) by striking ''The Secretary shall promptly'' and all that follows and inserting the following:

''(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State's apportionment to the State if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.''.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

''(g) SAVINGS PROVISION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

''(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

''(B) any purpose for which funds are authorized by section 403.

''(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.''.

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (*l*) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

''(2) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

''(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

''(i) documentation of current safety levels for each performance measure;

''(ii) quantifiable annual performance targets for each performance measure; and

''(iii) a justification for each performance target;

''(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

''(C) data and data analysis supporting the effectiveness of proposed countermeasures;

''(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

''(E) beginning with the plan submitted by July 1, 2013, a report on the State's success in meeting State safety goals set forth in the previous year's highway safety plan; and

''(F) an application for any additional grants available to the State under this chapter.

''(3) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, 'Traffic Safety Performance Measures for States and Federal Agencies' (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor's Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

''(4) REVIEW OF HIGHWAY SAFETY PLANS.—

''(A) IN GENERAL.—Not later than 60 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

''(B) APPROVALS AND DISAPPROVALS.—

''(i) APPROVALS.—The Secretary shall approve a State's highway safety plan if the Secretary determines that—

''(I) the plan is evidence-based and supported by data;

''(II) the performance targets are adequate; and

''(III) the plan, once implemented, will allow the State to meet such targets.

''(ii) DISAPPROVALS.—The Secretary shall disapprove a State's highway safety plan if the Secretary determines that the plan does not—

''(I) set appropriate performance targets; or

''(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

''(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

''(i) inform the State of the reasons for such disapproval; and

''(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

''(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

''(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State's resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State's performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State's plan into compliance with the performance targets.

''(F) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.''.

(g) COOPERATIVE RESEARCH AND EVALUATION.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(l) COOPERATIVE RESEARCH AND EVALUATION.—

''(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), $2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

''(2) ADMINISTRATION.—The program established under paragraph (1)—

''(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

''(B) shall be jointly managed by the Governors Highway Safety Association and the

National Highway Traffic Safety Administration.''.

(h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(m) TEEN TRAFFIC SAFETY PROGRAM.—

''(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

''(2) STRATEGIES.—The program implemented under paragraph (1)—

''(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

''(i) increase safety belt use;

''(ii) reduce speeding;

''(iii) reduce impaired and distracted driving;

''(iv) reduce underage drinking; and

''(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

''(B) may include—

''(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

''(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

''(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

''(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

''(v) conducting outreach and providing educational resources for parents;

''(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

''(vii) collaborating with law enforcement;

''(viii) organizing and hosting State and regional conferences for teen drivers;

''(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

''(x) funding a coordinator position for the teen safety program in the State or region.''.

SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended to read as follows:

''§ 403. Highway safety research and development

''(a) DEFINED TERM.—In this section, the term 'Federal laboratory' includes—

''(1) a Government-owned, Government-operated laboratory; and

''(2) a Government-owned, contractor-operated laboratory.

''(b) GENERAL AUTHORITY.—

''(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

''(A) all aspects of highway and traffic safety systems and conditions relating to—

''(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

''(ii) accident causation and investigations;

''(iii) communications;

''(iv) emergency medical services; and

''(v) transportation of the injured;

''(B) human behavioral factors and their effect on highway and traffic safety, including—

''(i) driver education;

''(ii) impaired driving;

''(iii) distracted driving; and

''(iv) new technologies installed in, or brought into, vehicles;

''(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives; and

''(D) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (C).

''(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

''(A) independently;

''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

''(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

''(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

''(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

''(B) Federal laboratories.

''(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

''(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

''(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

''(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

''(2) to pay for any travel, administrative, and other expenses related to such training.

''(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend $1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

''(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—

''(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

''(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

''(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

''(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

''(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

''(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

''(1) develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;

''(2) conduct periodic tests of such devices;

''(3) publish a Conforming Products List of such devices that have met the model specifications; and

''(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.''.

SEC. 31104. NATIONAL DRIVER REGISTER.

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: ''The Secretary shall make continual improvements to modernize the Register's data processing system.''.

SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

"§ 405. Combined occupant protection grants

''(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

''(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

''(c) ELIGIBILITY.—

''(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

''(A) submits an occupant protection plan during the first fiscal year;

''(B) participates in the Click It or Ticket national mobilization;

''(C) has an active network of child restraint inspection stations; and

''(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

''(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

''(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

''(B) the Secretary determines that the State meets at least 3 of the following criteria:

''(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

''(ii) The State has enacted and enforces a primary enforcement seat belt use law.

''(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

''(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

''(v) The State has implemented a comprehensive occupant protection program in which the State has—

''(I) conducted a program assessment;

''(II) developed a statewide strategic plan;

''(III) designated an occupant protection coordinator; and

''(IV) established a statewide occupant protection task force.

''(vi) The State—

''(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

''(II) will conduct such an assessment during the first year of the grant.

''(d) USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—

''(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

''(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

''(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

''(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

''(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;

''(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

''(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

''(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

''(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

''(g) DEFINITIONS.—In this section:

''(1) CHILD RESTRAINT.—The term 'child restraint' means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

''(2) SEAT BELT.—The term 'seat belt' means—

''(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

''405. Combined occupant protection grants.''.

SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

Section 408 of title 23, United States Code, is amended to read as follows:

"§ 408. State traffic safety information system improvements

''(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

''(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

''(2) evaluate the effectiveness of efforts to make such improvements;

''(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

''(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

''(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

''(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

''(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

''(1) has a functioning traffic records coordinating committee (referred to in this subsection as 'TRCC') that meets at least 3 times a year;

''(2) has designated a TRCC coordinator;

''(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

''(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

''(A) accuracy;

''(B) completeness;

''(C) timeliness;

''(D) uniformity;

''(E) accessibility; or

''(F) integration of a core highway safety database; and

''(5) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.

''(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

''(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.''.

SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§ 410. Impaired driving countermeasures

''(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

''(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

''(2) alcohol-ignition interlock laws.

''(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

''(c) ELIGIBILITY.—

''(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

''(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

''(A) a statewide impaired driving task force in the State developed a statewide plan

during the most recent 3 calendar years to address the problem of impaired driving; or

''(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

''(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

''(A)(i) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

''(ii) will conduct such an assessment during the first year of the grant;

''(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

''(i) addresses any recommendations from the assessment conducted under subparagraph (A);

''(ii) includes a detailed plan for spending any grant funds provided under this section; and

''(iii) describes how such spending supports the statewide program;

''(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

''(ii) annually updates the statewide plan in each subsequent year of the grant; and

''(iii) submits each updated statewide plan for the agency's review and comment; and

''(D) appoints a full- or part-time impaired driving coordinator—

''(i) to coordinate the State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

''(ii) to oversee the implementation of the statewide plan.

''(d) USE OF GRANT AMOUNTS.—

''(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

''(A) high visibility enforcement efforts; and

''(B) any of the activities described in paragraph (2) if—

''(i) the activity is described in the statewide plan; and

''(ii) the Secretary approves the use of funding for such activity.

''(2) AUTHORIZED PROGRAMS.—Medium- and low-range States may use grant funds for—

''(A) any of the purposes described in paragraph (1);

''(B) paid and earned media in support of high visibility enforcement efforts;

''(C) hiring a full-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

''(D) court support of high visibility enforcement efforts;

''(E) alcohol ignition interlock programs;

''(F) improving blood-alcohol concentration testing and reporting;

''(G) establishing driving while intoxicated courts;

''(H) conducting—

''(i) standardized field sobriety training;

''(ii) advanced roadside impaired driving evaluation training; and

''(iii) drug recognition expert training for law enforcement;

''(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

''(J) traffic safety resource prosecutors;

''(K) judicial outreach liaisons;

''(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

''(M) training on the use of alcohol screening and brief intervention;

''(N) developing impaired driving information systems; and

''(O) costs associated with a '24-7 sobriety program'.

''(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium- and high-range States may use funds for such expenditures upon approval by the Secretary.

''(e) GRANT AMOUNT.—Subject to subsection (g), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402(c) for fiscal year 2009.

''(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

''(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

''(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State's alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

''(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

''(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

''(g) DEFINITIONS.—In this section:

''(1) 24-7 SOBRIETY PROGRAM.—The term '24-7 sobriety program' means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

''(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

''(B) require the individual to be subject to testing for alcohol or drugs—

''(i) at least twice a day;

''(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

''(iii) by an alternate method with the concurrence of the Secretary.

''(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term 'average impaired driving fatality rate' means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

''(3) HIGH-RANGE STATE.—The term 'high-range State' means a State that has an average impaired driving fatality rate of 0.60 or higher.

''(4) LOW-RANGE STATE.—The term 'low-range State' means a State that has an average impaired driving fatality rate of 0.30 or lower.

''(5) MID-RANGE STATE.—The term 'mid-range State' means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

''410. Impaired driving countermeasures.''.

SEC. 31108. DISTRACTED DRIVING GRANTS.

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

''§ 411. Distracted driving grants

''(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

''(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

''(1) prohibits drivers from texting through a personal wireless communications device while driving;

''(2) makes violation of the statute a primary offense;

''(3) establishes—

''(A) a minimum fine for a first violation of the statute; and

''(B) increased fines for repeat violations; and

''(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

''(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

''(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

''(2) makes violation of the statute a primary offense;

''(3) requires distracted driving issues to be tested as part of the State driver's license examination;

''(4) establishes—

''(A) a minimum fine for a first violation of the statute; and

''(B) increased fines for repeat violations; and

''(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

''(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

''(1) a driver who uses a personal wireless communications device to contact emergency services;

''(2) emergency services personnel who use a personal wireless communications device while—

''(A) operating an emergency services vehicle; and

''(B) engaged in the performance of their duties as emergency services personnel; and

''(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

''(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

''(1) at least 50 percent shall be used—

''(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

''(B) for traffic signs that notify drivers about the distracted driving law of the State; or

''(C) for law enforcement costs related to the enforcement of the distracted driving law; and

''(2) up to 50 percent may be used for other projects that—

''(A) improve traffic safety; and

''(B) are consistent with the criteria set forth in section 402(a).

''(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

''(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

''(2) are otherwise ineligible for a grant under this section.

''(g) DEFINITIONS.—In this section:

''(1) DRIVING.—The term 'driving'—

''(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

''(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

''(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term 'personal wireless communications device'—

''(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

''(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

''(3) PRIMARY OFFENSE.—The term 'primary offense' means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

''(4) PUBLIC ROAD.—The term 'public road' has the meaning given that term in section 402(c).

''(5) TEXTING.—The term 'texting' means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

''411. Distracted driving grants.''.

SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.

Section 2009 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking ''at least 2'' and inserting ''at least 3''; and

(B) by striking ''years 2006 through 2012.'' and inserting ''fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).'';

(2) in subsection (b) by striking ''either or both'' and inserting ''outcomes related to at least 1'';

(3) in subsection (c), by inserting ''and Internet-based outreach'' after ''print media advertising'';

(4) in subsection (e), by striking ''subsections (a), (c), and (f)'' and inserting ''subsection (c)'';

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

SEC. 31110. MOTORCYCLIST SAFETY.

Section 2010 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking ''to the satisfaction of the Secretary—'' and all that follows and inserting '', to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).''.

SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''§ 413. In-vehicle alcohol detection device research

''(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

''(b) REPORTS.—The Administrator shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(1) describing progress in carrying out the collaborative research effort; and

''(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

''(c) DEFINITIONS.—In this title:

''(1) ALCOHOL-IMPAIRED DRIVING.—The term 'alcohol-impaired driving' means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

''(2) LEGAL LIMIT.—The term 'legal limit' means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

''413. In-vehicle alcohol detection device research.''.

SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

''§ 414. State Graduated Driver Licensing Incentive Grant

''(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

''(b) MINIMUM REQUIREMENTS.—

''(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver's license.

''(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State's driver's license laws include—

''(A) a learner's permit stage that—

''(i) is at least 6 months in duration;

''(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

''(iii) remains in effect until the driver—

''(I) reaches 16 years of age and enters the intermediate stage; or

''(II) reaches 18 years of age;

''(B) an intermediate stage that—

''(i) commences immediately after the expiration of the learner's permit stage;

''(ii) is at least 6 months in duration;

''(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

''(iv) restricts driving at night;

''(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

''(vi) remains in effect until the driver reaches 18 years of age; and

''(C) any other requirement prescribed by the Secretary of Transportation, including—

''(i) in the learner's permit stage—

''(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

''(II) a driver training course; and

''(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

''(ii) in the learner's permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense, including—

''(I) driving while intoxicated;

''(II) misrepresentation of his or her true age;

''(III) reckless driving;

''(IV) driving without wearing a seat belt;

''(V) speeding; or

''(VI) any other driving-related offense, as determined by the Secretary.

''(c) RULEMAKING.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

''(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

''(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

''(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

''(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State's apportionment under section 402 for such fiscal year.

''(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—

''(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

''(2) training for law enforcement personnel and other relevant State agency personnel

relating to the enforcement described in paragraph (1);

''(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

''(4) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

''(5) carrying out a teen traffic safety program described in section 402(m).''.

SEC. 31113. AGENCY ACCOUNTABILITY.

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

''(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

''(3) COMPONENTS.—Reviews under this subsection shall include—

''(A) a management evaluation of all grant programs funded under this chapter;

''(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

''(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

''(D) the development of recommendations on how each State could—

''(i) improve the management and oversight of its grant activities; and

''(ii) provide a management and oversight plan for such grant programs.''; and

(2) by striking subsection (f).

SEC. 31114. EMERGENCY MEDICAL SERVICES.

Section 10202 of Public Law 109–59 (42 U.S.C. 300d–4), is amended by adding at the end the following:

''(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the 'Advisory Council').

''(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

''(A) shall be appointed by the Secretary of Transportation; and

''(B) shall collectively be representative of all sectors of the emergency medical services community.

''(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

''(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

''(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

''(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

''(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

''(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

''(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council's actions and recommendations.''.

Subtitle B—Enhanced Safety Authorities

SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

''(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

''(i) is not a system, part, or component of a motor vehicle; and

''(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.''.

SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

''§ 30124. Nonuse of safety belts

''A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

''30124. Nonuse of safety belts.''.

SEC. 31203. CIVIL PENALTIES.

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''30123(d)'' and inserting ''30123(a)''; and

(ii) by striking ''$15,000,000'' and inserting ''$250,000,000''; and

(B) in paragraph (3), by striking ''$15,000,000'' and inserting ''$250,000,000''; and

(2) by amending subsection (c) to read as follows:

''(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

''(1) the nature of the defect or noncompliance;

''(2) knowledge by the person charged of its obligation to recall or notify the public;

''(3) the severity of the risk of injury;

''(4) the occurrence or absence of injury;

''(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

''(6) the existence of an imminent hazard;

''(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

''(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

''(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

''(10) other appropriate factors.''.

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) CONSTRUCTION.—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

''§ 30181. Policy

''The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

''§ 30182. Powers and duties

''(a) IN GENERAL.—The Secretary of Transportation shall—

''(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

''(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

''(A) accidents involving motor vehicles; and

''(B) deaths or personal injuries resulting from those accidents;

''(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

''(A) planning, implementing, conducting, and presenting results of program activities; and

''(B) travel and related expenses;

''(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

''(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

''(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

''(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

''(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including Government-owned, Government-operated laboratories and Government-owned, contractor-operated laboratories), and foreign governments and research organizations.

''(b) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

''(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

''(d) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

''§ 30183. Prohibition on certain disclosures.

''Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

''30181. Policy.

''30182. Powers and duties.

''30183. Prohibition on certain disclosures.''.

(2) DELETION OF REDUNDANT MATERIAL.—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

SEC. 31205. ODOMETER REQUIREMENTS DEFINITION.

Section 32702(5) of title 49, United States Code, is amended by inserting ''or system of components'' after ''instrument''.

SEC. 31206. ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.

Section 32705 of title 49, United States Code, is amended by adding at the end the following:

''(g) ELECTRONIC DISCLOSURES.—In carrying out this section, the Secretary may prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.''.

SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking ''$2,000'' and inserting ''$10,000''; and

(B) by striking ''$100,000'' and inserting ''$1,000,000''; and

(2) in section 32710(a), by striking ''$1,500'' and inserting ''$10,000''.

SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.''; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);''.

SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

''SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT'';

(2) in the heading for subchapter III, by striking ''NONCOMPLYING''; and

(3) in section 30147, by amending subsection (b) to read as follows:

''(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—

''(1) RULEMAKING.—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f).

''(2) REFUSAL OF ADMISSION.—If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

''(3) EXCEPTION.—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

''(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

''(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

''(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.''.

SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

''30164. Service of process; conditions on importation of vehicles and equipment.'';

and

(2) in section 30164—

(A) in the section heading, by adding ''**; CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**'' at the end; and

(B) by adding at the end the following:

''(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

''(1) the product by name and the manufacturer's address; and

''(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

''(d) RULEMAKING.—The Secretary may issue regulations that—

''(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

''(A) the requirements under this section;

''(B) any rules issued with respect to such requirements; or

''(C) any other requirements under this chapter or rules issued with respect to such requirements;

''(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

''(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

''(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

''(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

''(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

''(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.''.

SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting ''(including at United States ports of entry)'' after ''held for introduction in interstate commerce''; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) shall obtain from the Secretary of Homeland Security without charge, upon the request of the Secretary of Transportation, a reasonable number of samples of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter; and

''(5) shall instruct the Secretary of Homeland Security to refuse admission of the motor vehicle equipment into the customs territory of the United States if the Secretary of Transportation determines, after examination of the samples obtained under paragraph (4), that such refusal is warranted due to noncompliance with—

''(A) this chapter;

''(B) a regulation prescribed under this chapter; or

''(C) an order issued under this chapter.''.

Subtitle C—Transparency and Accountability

SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway Traffic Safety Administration's publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

(b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer's motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking ''A manufacturer shall give the Secretary of Transportation'' and inserting the following:

''(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,''; and

(2) by adding at the end the following:

''(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

''(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

''(A) identifies the make, model, and model year of the affected vehicles;

''(B) includes a concise summary of the subject matter of the communication; and

''(C) shall be made available by the Secretary to the public on the Internet in a searchable format.''.

SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

''(C) DISCLOSURE.—

''(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

''(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.''.

SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

''(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

''(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

''(A) the signing official has reviewed the submission; and

''(B) based on the official's knowledge, the submission does not—

''(i) contain any untrue statement of a material fact; or

''(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

''(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).''.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking ''A person'' and inserting ''Except as provided in paragraph (4), a person''; and

(2) by adding at the end the following:

''(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than $5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is $5,000,000.''.

SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'crash avoidance' means preventing or mitigating a crash;''; and

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting ''; and''.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting '', crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles'' after ''crashworthiness''; and

(2) by striking paragraph (4).

SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

''(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

''(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

''(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

''(B) to prominently print the information described in subparagraph (A) on a separate page within the owner's manual; and

''(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

''(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).''.

SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30171. Protection of employees providing motor vehicle safety information

''(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(3) testified or is about to testify in such a proceeding;

''(4) assisted or participated or is about to assist or participate in such a proceeding; or

''(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

''(b) COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

''(i) to take affirmative action to abate the violation;

''(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) to provide compensatory damages to the complainant.

''(C) ATTORNEYS' FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

''(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

''30171. Protection of employees providing motor vehicle safety information.''.

SEC. 31309. ANTI-REVOLVING DOOR.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30107. Restriction on covered motor vehicle safety officials

''(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

''(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

''(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other

entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

''(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

''(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

''(f) DEFINED TERM.—In this section, the term 'covered vehicle safety official' means any officer or employee of the National Highway Traffic Safety Administration—

''(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

''(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

''(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012.''.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

''(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

''(A) an amount equal to not less than $100,000; and

''(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.''.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

''30107. Restriction on covered motor vehicle safety officials.''.

SEC. 31310. STUDY OF CRASH DATA COLLECTION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the ''Administration'') shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

SEC. 31311. UPDATE OF MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.

(a) UPDATE OF MEANS OF PROVIDING NOTIFICATION.—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), ''by first class mail'' and inserting ''in the manner prescribed by the Secretary, by regulation'';

(2) in paragraph (2)—

(A) by striking ''(except a tire) shall be sent by first class mail'' and inserting ''shall be sent in the manner prescribed by the Secretary, by regulation,''; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting ''to the notification required under paragraphs (1) and (2)'' after ''addition''; and

(C) by inserting ''by the manufacturer'' after ''given''; and

(4) in paragraph (4), by striking ''by certified mail or quicker means if available'' and inserting ''in the manner prescribed by the Secretary, by regulation''.

(b) IMPROVING EFFICACY OF RECALLS.—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking ''SECOND'' and inserting ''ADDITIONAL'';

(2) by striking ''If the Secretary'' and inserting the following:

''(1) SECOND NOTIFICATION.—If the Secretary''; and

(3) by adding at the end the following:

''(2) ADDITIONAL NOTIFICATIONS.—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

''(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

''(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

''(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.''.

SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

''(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.'';

(2) in the heading of subsection (i), by adding ''OF NEW VEHICLES OR EQUIPMENT'' at the end; and

(3) in the heading of subsection (j), by striking ''REPLACED'' and inserting ''REPLACEMENT''.

SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

''§ 30120A. Recall obligations and bankruptcy of a manufacturer

''A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority, pursuant to section 3710 of such chapter, to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.''.

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

''30120a. Recall obligations and bankruptcy of a manufacturer.''.

SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting ''safety rating categories that may include'' after ''refers to''.

Subtitle D—Vehicle Electronics and Safety Standards

SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.

(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the ''Council'') to build, integrate, and aggregate the Administration's expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) IMPLEMENTATION OF ROADMAP.—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration's Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) INTRA-AGENCY COORDINATION.—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) HONORS RECRUITMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for a career in vehicle safety.

(2) STIPEND.—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) ASSESSMENT.—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

SEC. 31403. PEDAL PLACEMENT STANDARD.

(a) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) COMBINED RULEMAKING.—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—

(A) electronic components;

(B) the interaction of electronic components;

(C) security needs for those electronic systems to prevent unauthorized access; or

(D) the effect of surrounding environments on those electronic systems.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) NATIONAL ACADEMY OF SCIENCES.—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.

(a) PUSHBUTTON IGNITION STANDARD.—

(1) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) OTHER IGNITION SYSTEMS.—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-starting mechanism that the Secretary determines should be considered.

(b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The term ''pushbutton ignition system'' means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31406. VEHICLE EVENT DATA RECORDERS.

(a) MANDATORY EVENT DATA RECORDERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) PENALTY.—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to the requirements under section 30120 of that title.

(b) LIMITATIONS ON INFORMATION RETRIEVAL.—

(1) OWNERSHIP OF DATA.—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) PRIVACY.—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) REPORT TO CONGRESS.—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49, United States Code, is amended by inserting '', including any electronic data contained within the vehicle's diagnostic system or event data recorder'' after ''equipment.''

(g) DEADLINE FOR RULEMAKING.—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.

(a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms of similar visual entertainment that is visible to the driver while driving.

(b) EXCEPTIONS.—The standard prescribed under subsection (a) shall allow electronic screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

Subtitle E—Child Safety Standards

SEC. 31501. CHILD SAFETY SEATS.

(a) PROTECTION FOR LARGER CHILDREN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) SIDE IMPACT CRASHES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) FRONTAL IMPACT TEST PARAMETERS.—

(1) COMMENCEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle Safety Standard Number 213 to better replicate real world conditions.

(2) FINAL RULE.—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31503. REAR SEAT BELT REMINDERS.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31504. UNATTENDED PASSENGER REMINDERS.

(a) SAFETY RESEARCH INITIATIVE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) SPECIFICATIONS.—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) RULEMAKING OR REPORT.—

(1) RULEMAKING.—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) REPORT.—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31505. NEW DEADLINE.

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL EQUIPMENT.—The term ''agricultural equipment'' has the meaning given the term ''agricultural field equipment'' in ASABE Standard 390.4, entitled ''Definitions and Classifications of Agricultural Field Equipment'', which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) PUBLIC ROAD.—The term ''public road'' has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) MINIMUM STANDARDS.—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled ''Lighting and Marking of Agricultural Equipment on Highways'', which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) REVIEW.—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) LIMITATIONS.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) NO RETROFITTING REQUIRED.—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

SEC. 32001. SHORT TITLE.

This title may be cited as the ''Commercial Motor Vehicle Safety Enhancement Act of 2012''.

SEC. 32002. DEFINITION.

In this title, the term ''Secretary'' means the Secretary of Transportation.

SEC. 32003. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Commercial Motor Vehicle Registration

SEC. 32101. REGISTRATION OF MOTOR CARRIERS.

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

''(A) is willing and able to comply with—

''(i) this part and the applicable regulations of the Secretary and the Board;

''(ii) any safety regulations imposed by the Secretary;

''(iii) the duties of employers and employees established by the Secretary under section 31135;

''(iv) the safety fitness requirements established by the Secretary under section 31144;

''(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

''(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

''(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;

''(C) has disclosed any relationship involving common ownership, common management, common control, or a common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

''(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.''.

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal Government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting '', commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations'' after ''applicable safety regulations''; and

(2) by striking ''consider the establishment of'' and inserting ''establish''.

SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

''(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

''(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 32103. REINCARNATED CARRIERS.

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

''(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

''(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

''(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

''(i) this part;

''(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

''(iii) a condition of its registration;

''(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

''(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

''(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

''(iii) for failure to obey a subpoena issued by the Secretary;

''(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

''(i) this part;

''(ii) an applicable regulation or order of the Secretary or the Board; or

''(iii) a condition of its registration; or

''(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

''(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or a common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

''(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

''(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.''; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(2) PROCEDURE.—Section 13905(e) is amended by inserting ''or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),'' after ''registrant,''.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or a common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.''.

SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(d) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(2) to revise the bond and insurance requirements under section 13904(d) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

''§ 31134. Requirement for registration and USDOT number

''(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

''(b) WITHHOLDING REGISTRATION.—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

''(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

''(2) the employer or person is or was related through common ownership, common management, common control, or a common familial relationship to any other person or applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

''(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

''(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

''(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

''(2) the employer or person is or was related through common ownership, common management, common control, or a common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

''(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

''(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

''(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

''31134. Requirement for registration and USDOT number.''.

SEC. 32106. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking ''but shall not exceed $300''.

SEC. 32107. REGISTRATION UPDATE.

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

''(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

''(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

''(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking ''$500'' and inserting ''$1,000'';

(2) by striking ''who is not registered under this part to provide transportation of passengers,'';

(3) by striking ''with respect to providing transportation of passengers,'' and inserting ''or section 13902(c) of this title,''; and

(4) by striking ''$2,000 for each violation and each additional day the violation continues'' and inserting ''$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers''.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking ''not to exceed $20,000'' and inserting ''not less than $25,000''.

SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.

Section 13905(f)(2) is amended to read as follows:

''(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.''.

SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.

Section 525 is amended—

(1) by striking ''subpenas'' in the section heading and inserting ''subpoenas'';

(2) by striking ''subpena'' and inserting ''subpoena'';

(3) by striking ''$100'' and inserting ''$1,000'';

(4) by striking ''$5,000'' and inserting ''$10,000''; and

(5) by adding at the end the following:

''The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.''.

SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.

Section 13902(e)(1) is amended—

(1) by striking ''motor vehicle'' and inserting ''motor carrier'' after ''the Secretary determines that a''; and

(2) by striking ''order the vehicle'' and inserting ''order the motor carrier operations'' after ''the Secretary may''.

SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.

Section 31135 is amended—

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

''(b) NONCOMPLIANCE.—

''(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or a common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

''(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

''(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

''(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

''(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

''(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

''(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

''(C) any appropriate sanction approved by the Secretary.

''(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

''(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

''(B) repeated instances of negligent conduct that violates applicable laws (including regulations).''; and

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

''(c) AVOIDING COMPLIANCE.—For purposes of this section, 'avoiding compliance' or 'masking or otherwise concealing noncompliance' includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

''(1) 1 of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

''(A) a determination of unfitness under section 31144(b);

''(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

''(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

''(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

''(2) 1 or more of the carriers is the 'successor,' as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).''.

SEC. 32113. FEDERAL SUCCESSOR STANDARD.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

''§ 31153. Federal successor standard

''(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

''(b) SUCCESSOR DEFINED.—For purposes of this section, the term 'successor' means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

''(1) consideration paid for assets purchased or transferred;

''(2) dates of corporate creation and dissolution or termination of operations;

''(3) commonality of ownership;

''(4) commonality of officers and management personnel and their functions;

''(5) commonality of drivers and other employees;

''(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

''(7) identity of motor vehicle equipment;

''(8) continuity of liability insurance policies;

''(9) commonality of coverage under liability insurance policies;

''(10) continuation of carrier facilities and other physical assets;

''(11) continuity of the nature and scope of operations, including customers;

''(12) commonality of the nature and scope of operations, including customers;

''(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

''(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

''(15) additional factors that the Secretary considers appropriate.

''(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

''(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

''31153. Federal successor standard.''.

Subtitle B—Commercial Motor Vehicle Safety

SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting ''or'' at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking ''of property'' in the first sentence.

SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.

Paragraph (3) of section 31132 is amended to read as follows:

''(3) 'employer'—

''(A) means a person engaged in a business affecting interstate commerce that—

''(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

''(ii) offers for rent or lease a motor vehicle designed or used to transport more than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

''(B) does not include the Government, a State, or a political subdivision of a State.''.

SEC. 32203. CRASHWORTHINESS STANDARDS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.

Section 31144 is amended by adding at the end the following:

''(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

''(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

''(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.''.

SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

''(10) 'foreign commercial driver' means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.''.

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

''(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

''(A) for a driver holding a foreign commercial driver's license, each conviction relating to the operation of—

''(i) a commercial motor vehicle; and

''(ii) a non-commercial motor vehicle; and

''(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction for operating a commercial motor vehicle.''.

SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.

Section 31310 is amended by adding at the end the following:

''(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.''.

SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting ''foreign motor carrier, foreign motor private carrier,'' after ''registration of a motor carrier,'' each place it appears.

Subtitle C—Driver Safety

SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

''§ 31137. Electronic on-board recording devices and brake maintenance regulations'';

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending subsection (a) to read as follows:

''(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

''(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

''(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

''(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

''(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

''(A) require an electronic on-board recording device—

''(i) to accurately record commercial driver hours of service;

''(ii) to record the location of a commercial motor vehicle;

''(iii) to be tamper resistant; and

''(iv) to be integrally synchronized with an engine's control module;

''(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

''(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

''(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

''(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

''(B) establishing a secure process for standardized—

''(i) and unique vehicle operator identification;

''(ii) data access;

''(iii) data transfer for vehicle operators between motor vehicles;

''(iv) data storage for a motor carrier; and

''(v) data transfer and transportability for law enforcement officials;

''(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

''(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

''(c) CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

''(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

''(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term 'electronic on-board recording device' means an electronic device that—

''(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

''(2) meets the requirements established by the Secretary through regulation.''.

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking ''or 30141 through 30147'' and inserting ''30141 through 30147, or 31137''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

''31137. Electronic on-board recording devices and brake maintenance regulations.''.

SEC. 32302. SAFETY FITNESS.

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance-based data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

''(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

''(i) the completion of specific courses and materials;

''(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

''(iii) an examination that requires a passing grade; and

''(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;''.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking ''and'' after the semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

''(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

''(ii) the processing of the submissions by State licensing agencies.''.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections __2205(b) and __2306(b) of this Act, is amended by adding at the end the following:

''(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.''.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to $1,000,000 for fiscal year 2012 and up to $1,000,000 for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking ''An employer'' and inserting the following:

''(a) IN GENERAL.—An employer''; and

(2) by adding at the end the following:

''(b) DRIVER VIOLATION RECORDS.—

''(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

''(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

''(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

''(C) by a combination of inquiries to States and reports from driver record notification systems.

''(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

''(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

''(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

''(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

''(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term 'driver record notification system' means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.''.

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

''(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

''(1) addressing the knowledge and skills that—

''(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

''(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from 1 class of commercial driver's license to another class;

''(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

''(A) to suppress motorcoach fires; and

''(B) to evacuate passengers from motorcoaches safely;

''(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

''(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

''(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.''.

(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

''(1) an individual issued a commercial driver's license—

''(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

''(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);''.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

''§ 31305. General driver fitness, testing, and training''.

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

''31305. General driver fitness, testing, and training.''.

SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The plan shall specify—

''(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

''(ii) that States must use the systems to receive and submit conviction and disqualification data.''; and

(2) in subsection (f), by striking ''use'' and inserting ''use, subject to section 31313(a),''.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking ''At least'' and all that follows through ''regulation),'' and inserting: ''Not later than the time period prescribed by the Secretary by regulation,''; and

(B) by adding at the end the following:

''(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.''; and

(2) by adding at the end the following:

''(d) CRITICAL REQUIREMENTS.—

''(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver's license program.

''(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

''(e) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

''(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

''(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

''(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

''(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

''(C) other actions that the State will take to comply with the requirements under subsection (a).

''(3) PRIORITY.—

''(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

''(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

''(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

''(A) review each plan submitted under paragraph (1);

''(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

''(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

''(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

''(A) provide a written explanation of the disapproval to the State; and

''(B) allow the State to modify the plan and resubmit it for approval.

''(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

''(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

''(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

''(2) make the results of the comparison available to the public.''.

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

''(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

''(1) the State is not complying with a critical requirement under section 31311(d)(1); and

''(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.''.

SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting ''would not be subject to a disqualification under section 31310(g) of this title and'' after ''taking the tests''.

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting ''who holds a commercial driver's license and''.

SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting ''(1) IN GENERAL.—'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

''(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.''.

SEC. 32309. DISQUALIFICATIONS BASED ON NONCOMMERCIAL MOTOR VEHICLE OPERATIONS.

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by striking ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by striking ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) 'Disqualification' means—

''(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

''(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

''(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

''(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).''.

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after ''disqualified'' the following: ''by the State that issued the individual a commercial driver's license, or by the Secretary,''.

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

''If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.''.

SEC. 32311. EMPLOYER RESPONSIBILITIES.

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking ''knowingly''; and

(2) by striking ''in which'' and inserting ''that the employer knows or should reasonably know that''.

Subtitle D—Safe Roads Act of 2012

SEC. 32401. SHORT TITLE.

This subtitle may be cited as the ''Safe Roads Act of 2012''.

SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting ''and section 31306a'' after ''this section''; and

(2) by inserting after section 31306 the following:

''§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

''(2) PURPOSES.—The purposes of the clearinghouse shall be—

''(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

''(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

''(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

''(D) to reduce the number of impaired commercial motor vehicle operators.

''(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

''(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

''(b) DESIGN OF CLEARINGHOUSE.—

''(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

''(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

''(B) the findings and recommendations contained in the Government Accountability

Office's May 2008 report to Congress entitled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.'.

''(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

''(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

''(B) registering and authenticating authorized users of the clearinghouse;

''(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

''(D) preventing the unauthorized access of information from the clearinghouse;

''(E) storing and transmitting data;

''(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

''(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

''(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

''(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other noncompliance—

''(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer's inquiry about the employee; and

''(B) for an employee who is listed as having multiple employers.

''(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

''(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

''(B) auditing to monitor compliance and enforce penalties for noncompliance.

''(5) FUTURE NEEDS.—

''(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

''(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

''(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

''(iii) the potential interoperability of the clearinghouse with such systems.

''(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

''(i) the clearinghouse's capability for interoperability with—

''(I) the National Driver Register established under section 30302;

''(II) the Commercial Driver's License Information System established under section 31309;

''(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

''(IV) other data systems, as appropriate; and

''(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

''(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

''(1) by an authorized user of the clearinghouse to—

''(A) request a record from the clearinghouse; and

''(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

''(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

''(d) PRIVACY.—A release of information from the clearinghouse shall—

''(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

''(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

''(3) not be made to any person or entity unless expressly authorized or required by law.

''(e) FEES.—

''(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

''(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

''(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

''(f) EMPLOYER REQUIREMENTS.—

''(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

''(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

''(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

''(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

''(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

''(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

''(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

''(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

''(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

''(g) REPORTING OF RECORDS.—

''(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

''(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

''(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

''(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

''(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

''(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

''(A) a record relating to the individual is received by the clearinghouse;

''(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

''(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

''(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

''(A) the submission of records to the clearinghouse is timely and accurate;

''(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

''(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

''(6) RETENTION OF RECORDS.—The Secretary shall—

''(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

''(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

''(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

''(h) AUTHORIZED USERS.—

''(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

''(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

''(i) obtains the prior written or electronic consent of the individual for access to the record; and

''(ii) submits proof of the individual's consent to the Secretary.

''(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

''(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

''(i) a record of each request made by the employer for records from the clearinghouse; and

''(ii) the information received pursuant to the request.

''(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

''(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

''(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

''(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

''(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

''(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

''(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

''(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

''(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

''(A) what use the additional user will make of the individual's record;

''(B) the costs and benefits of the use; and

''(C) how to protect the privacy of the individual and the confidentiality of the record.

''(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

''(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

''(A) to determine whether the clearinghouse contains a record pertaining to the individual;

''(B) to verify the accuracy of a record;

''(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

''(D) to determine whether the clearinghouse received requests for the individual's information.

''(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

''(j) PENALTIES.—

''(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

''(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

''(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

''(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

''(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

''(A) the reporting of valid positive results from alcohol screening tests and drug tests;

''(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

''(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

''(A) verified positive alcohol or drug test result;

''(B) refusal to provide a specimen for the test; or

''(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(l) DEFINITIONS.—In this section—

''(1) AUTHORIZED USER.—The term 'authorized user' means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

''(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term 'chief commercial driver's licensing official' means the official in a State who is authorized to—

''(A) maintain a record about commercial driver's licenses issued by the State; and

''(B) take action on commercial driver's licenses issued by the State.

''(3) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse established under subsection (a).

''(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term 'commercial motor vehicle operator' means an individual who—

''(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

''(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

''(5) EMPLOYER.—The term 'employer' means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

''(6) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a licensed physician who is responsible for—

''(A) receiving and reviewing a laboratory result generated under the testing program;

''(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

''(C) interpreting the results of a controlled substances test.

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

''(8) SERVICE AGENT.—The term 'service agent' means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

''(9) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

''31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.''.

SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

''(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).''; and

(3) by amending section 31310(d) to read as follows:

''(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

''(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

''(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.''.

SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to $5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

Subtitle E—Enforcement

SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—

(1) by inserting '', or an employee of the recipient of a grant issued under section 31102 of this title'' after ''a contractor''; and

(2) by inserting '', in person or in writing'' after ''proper credentials''.

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

''(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.''.

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting '', in person or in writing,'' after ''proper credentials''.

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting '', in person or in writing'' after ''proper credentials''.

SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2)(E) is amended—

(1) by inserting after ''$10,000.'' the following: ''In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service.''; and

(2) by striking ''such penalty'' after ''It shall be a defense to'' and inserting ''a penalty''.

SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.

Section 521(b)(2) is amended by adding at the end the following:

''(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.''.

SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting '', and such period shall be for not less than 10 days'' after ''operator is fit''.

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting '', and such period shall be for not less than 10 days'' after ''operator is fit''.

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: '', and such period shall be for not less than 10 days''.

SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.

Section 521(b)(7) is amended by adding at the end the following:

''The penalties may include a minimum duration for any out of service period, not to exceed 90 days.''.

SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.

Section 521(b) is amended by adding at the end the following:

''(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

''(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

''(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

''(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

''(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

''(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

''(C) DEFINITION.—In this paragraph, the term 'impoundment' or 'impounding' means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.''.

SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.

(a) PENALTIES.—Section 524 is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting after ''this chapter'' the following: '', chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,'';

(3) by striking ''$200 but not more than $500'' and inserting ''$2,000 but not more than $5,000''; and

(4) by striking ''$250 but not more than $2,000'' and inserting ''$2,500 but not more than $7,500''.

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking ''$200'' and inserting ''at least $2,000'';

(2) by striking ''$250'' and inserting ''$5,000''; and

(3) by inserting after ''a subsequent violation'' the following:

'', and may be subject to criminal penalties''.

SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

''§ 31152. Disqualification for failure to pay

''An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections __2206 and __2310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

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

''(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''; and

(3) in subsection (i), as redesignated, by striking ''Notwithstanding subsections (b) through (g)'' and inserting ''Notwithstanding subsections (b) through (h)''.

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

''31152. Disqualification for failure to pay.''.

SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.

Section 521(b)(2)(D) is amended by striking ''ability to pay,''.

SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.

Section 31310(f) is amended—

(1) in paragraph (1) by inserting ''section 521 or'' before ''section 5102''; and

(2) in paragraph (2) by inserting ''section 521 or'' before ''section 5102''.

SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

''(C) If an employee, vehicle, or all or part of an employer's commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.''.

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

''(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.''.

SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by

sections __2113 and __2508 of this Act, is amended by adding after section 31153 the following:

''§ 31154. Enforcement of safety laws and regulations

''(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

''(b) VENUE.—In a civil action under subsection (a)—

''(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

''31154. Enforcement of safety laws and regulations.''.

SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

''(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.''.

Subtitle F—Compliance, Safety, Accountability

SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

''§ 31102. Compliance, safety, and accountability grants'';

(2) by amending subsection (a) to read as follows:

''(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.'';

(3) in subsection (b)—

(A) by amending the heading to read as follows:

''(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—'';

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

''(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

''(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

''(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

''(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

''(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.'';

(D) in paragraph (2), as redesignated—

(i) by striking ''make a declaration of'' in subparagraph (I) and inserting ''demonstrate'';

(ii) by amending subparagraph (M) to read as follows:

''(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding;'';

(iii) in subparagraph (Q), by inserting ''and dedicated sufficient resources to'' between ''established'' and ''a program'';

(iv) in subparagraph (W), by striking ''and'' after the semicolon;

(v) by amending subparagraph (X) to read as follows:

''(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and''; and

(vi) by adding after subparagraph (X) the following:

''(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

''(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

''(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

''(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

''(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.'';

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

''(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

''(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

''(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

''(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

''(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

''(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

''(f) BORDER ENFORCEMENT.—

''(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

''(g) HIGH PRIORITY INITIATIVES.—

''(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

''(A) are national in scope;

''(B) increase public awareness and education;

''(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

''(D) improve consumer protection and enforcement of household goods regulations;

''(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that

improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

''(F) demonstrate new technologies to improve commercial motor vehicle safety.

''(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

''(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

''(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

''(A) developed by the Secretary; and

''(B) posted in the Federal Register in advance of the grant application period.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

''31102. Compliance, safety, and accountability grants.''.

SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

''(C) establish and implement a process—

''(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

''(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.''; and

(2) by striking paragraph (4).

SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.

Section 31101(1) is amended to read as follows:

''(1) 'commercial motor vehicle' means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

''(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

''(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

''(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

''(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.''.

SEC. 32604. DRIVER SAFETY FITNESS RATINGS.

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

''(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

''(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

''(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

''(3) Specific time frames within which the Secretary will determine whether a driver is fit.

''(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

''(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements with which the driver failed to comply and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

''(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.''.

SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

''§ 31110. Withholding amounts for State noncompliance

''(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

''(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

''(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

''31110. Withholding amounts for State noncompliance.''.

SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.

Section 31104 is amended to read as follows:

''§ 31104. Availability of amounts

''(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

''(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

''(A) $249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than $168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

''(B) $253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than $171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

''(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

''(A) $30,000,000 for fiscal year 2012; and

''(B) $30,000,000 for fiscal year 2013.

''(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—

''(A) $31,000,000 for fiscal year 2012; and

''(B) $31,000,000 for fiscal year 2013.

''(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

''(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

''(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

''(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

''(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

''(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

''(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

''(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for

payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

''(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

''(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

''(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

''(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

''(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

''(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

''(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

''(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

''(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

''(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

''(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

''(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

''(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

''(h) ADMINISTRATIVE EXPENSES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

''(A) $250,819,000 for fiscal year 2012; and

''(B) $248,523,000 for fiscal year 2013.

''(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

''(i) AVAILABILITY OF FUNDS.—

''(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

''(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.''.

SEC. 32607. HIGH RISK CARRIER REVIEWS.

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

''From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.''.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

SEC. 32608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

''§ 31109. Data and technology grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

''(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

''(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

''(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

''(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

''(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

''(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

''(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

''(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

''(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

''(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

''31109. Data and technology grants.''.

SEC. 32609. DRIVER SAFETY GRANTS.

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

''§ 31313. Driver safety grants

''(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

''(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

''(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

''(A) to comply with the requirements of section 31311;

''(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

''(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

''(D) for commercial driver's license program coordinators;

''(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

''(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

''(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

''(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.

''(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

''31313. Driver safety grants.''.

SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

Subtitle G—Motorcoach Enhanced Safety Act of 2012

SEC. 32701. SHORT TITLE.

This subtitle may be cited as the ''Motorcoach Enhanced Safety Act of 2012''.

SEC. 32702. DEFINITIONS.

In this subtitle:

(1) ADVANCED GLAZING.—The term ''advanced glazing'' means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) BUS.—The term ''bus'' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term ''commercial motor vehicle'' has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term ''direct tire pressure monitoring system'' means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) ELECTRONIC ON-BOARD RECORDER.—The term ''electronic on-board recorder'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) EVENT DATA RECORDER.—The term ''event data recorder'' has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) MOTOR CARRIER.—The term ''motor carrier'' means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) MOTORCOACH.—The term ''motorcoach'' has the meaning given the term ''over-the-road bus'' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) MOTORCOACH SERVICES.—The term ''motorcoach services'' means passenger transportation by motorcoach for compensation.

(10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term ''multifunction school activity bus'' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) PORTAL.—The term ''portal'' means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) PROVIDER OF MOTORCOACH SERVICES.—The term ''provider of motorcoach services'' means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) PUBLIC TRANSPORTATION.—The term ''public transportation'' has the meaning given the term in section 5302 of title 49, United States Code.

(14) SAFETY BELT.—The term ''safety belt'' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

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

SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.

(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) IN GENERAL.—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) PERFORMANCE REQUIREMENTS.—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.

(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.

(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

SEC. 32706. MOTORCOACH REGISTRATION.

(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

''(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

''(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

''(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

''(ii) the carrier's system of compliance with hours-of-service rules, including hours-of-service records;

''(iii) the ability to obtain required insurance;

''(iv) driver qualifications, including the validity of the commercial driver's license of each driver who will be operating under such authority;

''(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

''(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

''(vii) safety management programs, including vehicle maintenance and repair programs; and

''(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

''(B) has been interviewed to review safety management controls and the carrier's written safety oversight policies and practices; and

''(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

''(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

''(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than $1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).''.

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting ''transporting property'' after ''each operator''.

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking ''section 13902(b)(8)(A)'' and inserting ''section 13902(b)(11)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.

Section 31144, as amended by sections __2204 and __2604 of this Act, is amended by adding at the end the following:

''(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall—

''(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration; and

''(ii) assign a safety fitness rating to each such provider.

''(B) APPLICABILITY.—Subparagraph (A) shall apply—

''(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

''(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

''(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

''(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

''(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall reassess the safety fitness rating of each provider not less frequently than once every 3 years.

''(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term 'provider of motorcoach services' has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.''.

SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.

Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the

Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

SEC. 32710. EVENT DATA RECORDERS.

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

SEC. 32712. DISTRACTED DRIVING.

(a) IN GENERAL.—Chapter 311, as amended by sections __2113, __2508, and __2512 of this Act, is amended by adding after section 31154 the following:

''§ 31155. Regulation of the use of distracting devices in motorcoaches

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

''(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

''(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

''(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

''31155. Regulation of the use of distracting devices in motorcoaches.''.

SEC. 32713. REGULATIONS.

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

Subtitle H—Safe Highways and Infrastructure Preservation

SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes; and

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Subtitle I—Miscellaneous

PART I—DETENTION TIME STUDY

SEC. 32911. DETENTION TIME STUDY.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

SEC. 32912. PROHIBITION OF COERCION.

Section 31136(a) is amended by—

(1) striking ''and'' at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) adding after subsection (4) the following:

''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.''.

SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting ''nonprofit employee labor organizations representing commercial motor vehicle drivers,'' after ''industry,''.

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking ''March 31, 2012'' and inserting ''September 30, 2013''.

SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting ''and'' at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register'';

(2) by amending subparagraph (B) to read as follows:

''(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.''; and

(3) in subparagraph (C), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register''.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

''(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.''.

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking ''in the Federal Register''.

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

''(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

''(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.''.

SEC. 32915. TRANSPORTATION OF HORSES.

Section 80502 is amended—

(1) in subsection (c), by striking ''This section does not'' and inserting ''Subsections (a) and (b) shall not'';

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

''(d) TRANSPORTATION OF HORSES.—

''(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

''(2) MOTOR VEHICLE DEFINED.—In this subsection, the term 'motor vehicle'—

''(A) means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and

''(B) does not include a vehicle operated exclusively on a rail or rails.''; and

(4) in subsection (e), as redesignated—

(A) by striking ''A rail carrier'' and inserting the following:

''(1) IN GENERAL.—A rail carrier'';

(B) by striking ''this section'' and inserting ''subsection (a) or (b)''; and

(C) by striking ''On learning'' and inserting before ''of a violation'' the following:

''(2) TRANSPORTATION OF HORSES IN MULTI-LEVEL TRAILER.—

''(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

''(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law.

''(3) CIVIL ACTION.—On learning''.

PART II—HOUSEHOLD GOODS TRANSPORTATION

SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking ''section 13702(c);'' and inserting ''section 13702(c); and'';

(2) by amending subparagraph (C) to read as follows:

''(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.''; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

''(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

''(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking ''and 14103'' and inserting '', 14103, and 14915(c)''.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

''The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.''.

SEC. 32923. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

''(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

''(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 2925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

PART III—TECHNICAL AMENDMENTS

SEC. 32931. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking ''Not later than December 1, 1990, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.''; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking ''Not later than December 18, 1994, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(d) Section 31310(g)(1) is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(4) in section 333(e)—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' and inserting ''Board''.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking ''24706(c) of this title'' and inserting ''24706(c) of this title before May 31, 1998''.

(c) RIGHTS AND REMEDIES OF PERSONS INJURED BY CARRIERS OR BROKERS.—

(1) Section 14704 is amended—

(A) in subsection (a)—

(i) by striking ''IN GENERAL.—'' and all that follows through ''injured'' and inserting ''ENFORCEMENT OF ORDER.—A person injured''; and

(ii) by redesignating paragraph (2) as subsection (b)(1); and

(B) in subsection (b)—

(i) by redesignating subsection (b) as paragraph (2);

(ii) by striking ''LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—'' and all that follows through ''A carrier'' and inserting ''EXCEEDING TARIFF RATE.—''; and

(iii) by striking ''DAMAGES FOR VIOLATIONS.—'' in paragraph (1), as redesignated, and inserting ''OTHER VIOLATIONS.—''.

(2) Section 14705(c) is amended by striking ''14704(b)'' and inserting ''14704(b)(2)''.

(d) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''.

(2) Section 24311 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board'';

(B) by striking ''Commission'' each place it appears and inserting ''Board''; and

(C) by striking ''Commission's'' and inserting ''Board's''.

(3) Section 24902 is amended—

(A) by striking ''Interstate Commerce Commission'' each place it appears and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

(4) Section 24904 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking ''sections'' and inserting ''section''; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting ''; and''.

(b) Section 31103(a) is amended by striking ''section 31102(b)(1)(E)'' and inserting ''section 31102(b)(2)(E)''.

(c) Section 31103(b) is amended by striking ''authorized by section 31104(f)(2)''.

(d) Section 31309(b)(2) is amended by striking ''31308(2)'' and inserting ''31308(3)''.

PART IV—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012

SEC. 32941. SHORT TITLE.

This part may be cited as the ''Surface Transportation and Freight Policy Act of 2012''.

SEC. 32942. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.

(a) IN GENERAL.—Subchapter I of chapter 3, as amended by section 32932 of this Act, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

''§ 303. National surface transportation policy

''(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation's air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall

be responsible for carrying out this policy and for defining the Federal government's role in the system.

''(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

''(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

''(2) the safety and health of the public;

''(3) the security of the Nation and the public;

''(4) environmental protection;

''(5) energy conservation and security, including reducing transportation-related energy use;

''(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

''(7) responsible planning to address population distribution and employment and sustainable development;

''(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

''(9) reasonable access to the national surface transportation system for all system users, including rural communities;

''(10) the sustainable, balanced, and adequate financing of the national surface transportation system; and

''(11) innovation in transportation services, infrastructure, and technology.

''(c) GOALS.—

''(1) SPECIFIC GOALS.—The goals of the policy shall be—

''(A) to reduce average per capita peak period travel times on an annual basis;

''(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

''(C) to reduce national surface transportation delays per capita on an annual basis;

''(D) to improve the access to employment opportunities and other economic activities;

''(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

''(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

''(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

''(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

''(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

''(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

''(K) to reduce transportation-related impacts on the environment and on communities on an annual basis.

''(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.''.

(b) FREIGHT POLICY.—Subchapter I of chapter 3, as amended by section 32942(a) of this Act, is amended by adding at the end the following:

''§ 312. National freight transportation policy.

''(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

''(b) OBJECTIVES.—The objectives of the policy are—

''(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

''(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

''(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

''(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

''(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

''(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.''.

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

''303. National surface transportation policy.''; and

(5) by inserting after the item relating to section 311 the following:

''312. National freight transportation policy.''.

SEC. 32943. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3, as amended by section 32942 of this Act, is amended by inserting after section 303 the following—

''§ 304. National surface transportation and freight strategic performance plan.

''(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312 .

''(b) CONTENTS.—The plan shall include—

''(1) an assessment of the current performance of the national surface transportation system and an analysis of the system's ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

''(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

''(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

''(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

''(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

''(6) a plan for any reorganization of the Department of Transportation or its agencies necessary to meet the policy, objectives, and goals set forth in sections 303 and 312;

''(7) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

''(8) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

''(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

''(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

''(2) consider on-going Federal, State, and corridor-wide transportation plans;

''(3) provide public notice and hearings and solicit public comments on the plan, and

''(4) as appropriate, establish advisory committees to assist with developing the plan.

''(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

''(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

''(2) post the completed plan on the Department of Transportation's public web site.

''(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

''(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

''(2) describe challenges and obstacles to full implementation;

''(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

''(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

''(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

''(g) IMPLEMENTATION.—The Secretary shall—

''(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program to evaluate:

''(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

''(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

''(2) using the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

''(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness;

''(4) implement this section in a manner that is consistent with sections 302, 5503, 10101, and 13101 of this title and section 101 of title 23 to the extent that such sections do not conflict with the policy, objectives, and goals established by sections 303 and 312;

''(5) review, update, and reissue all relevant surface transportation planning requirements to ensure that such requirements require that regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

''(6) require States and metropolitan planning organizations to annually report on the use of Federal surface transportation funds, including a description of—

''(A) which projects and priorities were funded with such funds;

''(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

''(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 is amended by inserting after the item relating to section 303 the following:

''304. National surface transportation and freight strategic performance plan.''.

SEC. 32944. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health;

(C) a valuation of modal alternatives; and

(D) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

SEC. 32945. NATIONAL FREIGHT INFRASTRUCTURE INVESTMENT GRANTS.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 55 is amended by adding at the end the following:

''SUBCHAPTER III—FINANCIAL ASSISTANCE

''§ 5581. National freight infrastructure investment grants.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance for capital investments that improve the efficiency of the national transportation system to move freight.

''(b) ELIGIBLE PROJECTS.—An applicant is eligible for a grant under this section for—

''(1) a port development or improvement project;

''(2) a multimodal terminal facility project;

''(3) a land port of entry project;

''(4) a freight rail improvement or capacity expansion project;

''(5) an intelligent transportation system project primarily for freight benefit that reduces congestion or improves safety;

''(6) a project that improves access to a port or terminal facility;

''(7) a highway project to reduce congestion or improve safety; or

''(8) planning, preparation, or design of any project described in paragraph (1), (2), (3), (4), (5), (6), or (7).

''(c) PROJECT SELECTION CRITERIA.—In determining whether to award a grant to an eligible applicant under this section, the Secretary shall consider the extent to which the project—

''(1) supports the objectives of the National Surface Transportation and Freight Performance Plan developed under section 304;

''(2) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

''(3) improves the mobility of goods and commodities;

''(4) incorporates new and innovative technologies, including freight-related intelligent transportation systems;

''(5) improves energy efficiency or reduces greenhouse gas emissions;

''(6) helps maintain or protect the environment, including reducing air and water pollution;

''(7) reduces congestion;

''(8) improves the condition of the freight infrastructure, including bringing it into a state of good repair;

''(9) improves safety, including reducing transportation accidents, injuries, and fatalities;

''(10) demonstrates that the proposed project cannot be readily and efficiently realized without Federal support and participation; and

''(11) enhances national or regional economic development, growth, and competitiveness.

''(d) PRIORITY.—The Secretary shall give priority to projects that have the highest system performance improvement relative to their benefit-cost analysis, as measured by the tools developed under section 32944 of the Surface Transportation and Freight Policy Act of 2012 and those that support domestic manufacturing of goods.

''(e) LETTERS OF INTENT.—

''(1) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(2) WRITTEN NOTICE.—Not later than 30 days before issuing a letter under paragraph (1), the Secretary shall provide written notice of the proposed letter or agreement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used under subsection (c) for selecting the project for a grant award, and a description of how the project meets such criteria.

''(3) SUBJECT TO AVAILABILITY OF FUNDS.—An obligation or administrative commitment may be made only when amounts are made available. Each letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of funds under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

''(f) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(2) FEDERAL SHARE.—The Federal share of a grant for the project shall not exceed 80 percent of the project net capital cost.

''(3) PRIORITY.—The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

''(g) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—An applicant may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this subchapter.

''(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

''(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

''(B) cost-sharing of any project expense or non-Federal share of the project cost, including in kind contributions;

''(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

''(D) any other form of participation approved by the Secretary.

''(h) OVERSIGHT PROGRAM.—

''(1) ESTABLISHMENT.—

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

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

''(2) FINANCIAL INTEGRITY.—

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

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

''(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of an applicant, which elements include 1 or more activities that are involved in the life cycle of a project from conception to completion of the project.

''(4) RESPONSIBILITY OF THE APPLICANTS.—

''(A) IN GENERAL.—Each applicant shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

''(B) APPLICANT SUBRECIPIENTS.—The applicant shall be responsible for determining that a subrecipient of Federal funds under this section—

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

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

''(C) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the applicant.

''(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

''(i) MAJOR PROJECTS.—

''(1) IN GENERAL.—A recipient of a grant for a project under this section with an estimated total cost of $500,000,000 or more, and a recipient for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

''(A) a project management plan; and

''(B) an annual financial plan.

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

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

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

''(3) FINANCIAL PLAN.—A financial plan shall—

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

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

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

''(k) OTHER TERMS AND CONDITIONS.—The Secretary shall determine what additional grant terms and conditions are necessary and appropriate to meet the requirements of this section.

''(l) REGULATIONS.—Not later than 1 year after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall prescribe regulations to implement this section.

''(m) APPLICANT DEFINED.—In this subchapter, the term 'applicant' includes a State, a political subdivision of a State, a metropolitan planning organization, government-sponsored authorities and corporations, and the District of Columbia.

''(n) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this subchapter to enter into contracts to oversee the construction of such projects.

''(2) PERMISSIBLE USES.—The Secretary may use amounts available under paragraph (1) to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) COST.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 55 is amended by adding at the end the following:

''SUBCHAPTER III. FINANCIAL ASSISTANCE''

''5581. National freight infrastructure investment grants.''.

SEC. 32946. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

''(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.''.

SEC. 32947. OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.

(a) IN GENERAL.—Section 102 is amended—

(1) by redesignating subsection (h) as subsection (i); and

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

''(h) OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.—

''(1) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of Freight Planning and Development. The Office shall—

''(A) coordinate investment of Federal funding to improve the efficiency of the national transportation system to move freight consistent with the policy and objectives of section 312;

''(B) facilitate communication among government, public, and private freight transportation stakeholders;

''(C) support the Secretary in the development of the National Freight Transportation Strategic Plan; and

''(D) carry out other duties, as prescribed by the Secretary.

''(2) ORGANIZATION.—The head of the Office shall be the Assistant Secretary of Freight Planning and Development.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 102(e) is amended by striking ''4'' and inserting ''5''.

(2) Section 5315 of title 5, United States Code, is amended by striking ''(4)'' in the item relating to Assistant Secretaries of Transportation and inserting ''(5)''.

SEC. 32948. SAFETY FOR MOTORIZED AND NONMOTORIZED USERS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''§ 413. Safety for motorized and nonmotorized users

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

''(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

''(c) COMPLIANCE.—

''(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

''(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''413. Safety for motorized and nonmotorized users.''.

TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012

SEC. 33001. SHORT TITLE.

This title may be cited as the ''Hazardous Materials Transportation Safety Improvement Act of 2012''.

SEC. 33002. DEFINITION.

In this title, the term ''Secretary'' means the Secretary of Transportation.

SEC. 33003. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 33004. TRAINING FOR EMERGENCY RESPONDERS.

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking ''basic'';

(2) in subsection (b)(2), by striking ''basic''; and

(3) in subsection (c), by striking ''basic''.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: ''To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.'';

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

''(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

''(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.''; and

(3) in subsection (k)—

(A) by striking ''annually'' and inserting ''an annual report'';

(B) by inserting ''the report'' after ''make available'';

(C) by striking ''information'' and inserting ''. The report submitted under this subsection shall include information''; and

(D) by striking ''The report shall identify'' and all that follows and inserting the following: ''The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

''(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

''(B) the number of persons trained under the grant program, by training level;

''(C) an evaluation of the efficacy of such planning and training programs; and

''(D) any recommendations the Secretary may have for improving such grant programs.''.

SEC. 33005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term ''paperless hazard communications system'' means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

SEC. 33006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the ''Administration'') for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting ''and other hazardous materials transportation incident reporting to the 9–1–1 emergency system or involving State or local emergency responders in the initial response to the incident'' before the period at the end.

SEC. 33007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.

(a) RULEMAKING.—Not later than 2 years after date of enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) INCLUSION.—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) CONSIDERATION.—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules and procedures that produce an equivalent level of safety.

SEC. 33008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

''§ 5118. Hazardous material technical assessment, research and development, and analysis program

''(a) RISK REDUCTION.—

''(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

''(A) reducing the risks associated with the transportation of hazardous material; and

''(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

''(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

''(A) utilize information gathered from other modal administrations with similar programs; and

''(B) coordinate with other modal administrations, as appropriate.

''(b) COOPERATION.—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

''5118. Hazardous material technical assessment, research and development, and analysis program.''.

SEC. 33009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation's multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

SEC. 33010. INSPECTIONS.

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

''(i) his or her decision to exercise his or her authority under paragraph (1);

''(ii) any findings made; and

''(iii) any actions being taken as a result of a finding of noncompliance.''.

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

''(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

''(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

''(B) the means by which—

''(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

''(ii) noncompliant packages that do not present a hazard are moved to their final destination;

''(C) appropriate training and equipment for inspectors; and

''(D) the proper closure of packaging in accordance with the hazardous material regulations.''.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting ''safety and'' before ''security''.

SEC. 33011. CIVIL PENALTIES.

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''$50,000'' and inserting ''$75,000''; and

(B) in paragraph (2), by striking ''$100,000'' and inserting ''$175,000''; and

(2) by adding at the end the following:

''(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

''(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

''(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

''(3) RULEMAKING.—Not later than 2 years after the date of enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

''(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

''(B) ensures that the person described in subparagraph (A)—

''(i) is notified in writing; and

''(ii) is given an opportunity to respond before the person is required to cease the activity.''.

SEC. 33012. REPORTING OF FEES.

Section 5125(f)(2) is amended by striking '', upon the Secretary's request,'' and inserting ''biennially''.

SEC. 33013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

(a) IN GENERAL.—Section 5117 is amended to read as follows:

''§ 5117. Special permits, approvals, and exclusions

''(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

''(1) CONDITIONS.—The Secretary of Transportation may issue, modify, or terminate a special permit implementing new technologies or authorizing a variance from a provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

''(A) a safety level at least equal to the safety level required under this chapter; or

''(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.

''(2) FINDINGS REQUIRED.—

''(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

''(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

''(i) the person's safety history (including prior compliance history);

''(ii) the person's accident and incident history; and

''(iii) any other information the Secretary considers appropriate to make such a determination.

''(3) EFFECTIVE PERIOD.—A special permit issued under this section—

''(A) shall be for an initial period of not more than 2 years;

''(B) may be renewed by the Secretary upon application—

''(i) for successive periods of not more than 4 years each; or

''(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

''(b) APPLICATIONS.—

''(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

''(A) a detailed description of the person's request;

''(B) a listing of the person's current facilities and addresses where the special permit will be utilized;

''(C) a safety analysis prescribed by the Secretary that justifies the special permit;

''(D) documentation to support the safety analysis;

''(E) a certification of safety fitness; and

''(F) proof of registration, as required under section 5108.

''(2) PUBLIC NOTICE.—The Secretary shall—

''(A) publish notice in the Federal Register that an application for a special permit has been filed; and

''(B) provide the public an opportunity to inspect and comment on the application.

''(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

''(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

''(A) issuing, modifying, or renewing the special permit;

''(B) granting party status to the special permit; or

''(C) issuing or renewing the special permit or approval.

''(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term 'modal contact official' means—

''(A) the Administrator of the Federal Aviation Administration;

''(B) the Administrator of the Federal Motor Carrier Safety;

''(C) the Administrator of the Federal Railroad Administration; and

''(D) the Commandant of the Coast Guard.

''(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

''(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

''(2) publish a statement in the Federal Register that—

''(A) describes the reason for the delay of the Secretary's decision on the special permit or approval; and

''(B) includes an estimate of the additional time necessary before the decision is made.

''(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

''(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

''(A) a special permit is necessary for national security purposes;

''(B) processing on a routine basis under this section would result in significant injury to persons or property; or

''(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

''(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

''(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice in the Federal Register of the issuance that includes—

''(A) a statement of the basis for the finding of emergency; and

''(B) the scope and duration of the special permit.

''(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

''(f) EXCLUSIONS.—

''(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

''(A) a public vessel (as defined in section 2101 of title 46);

''(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

''(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

''(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

''(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

''(B) transportation of a firearm or ammunition in commerce.

''(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

''(h) APPROVALS.—

''(1) FINDINGS REQUIRED.—

''(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

''(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

''(i) the person's safety history (including prior compliance history);

''(ii) the person's accident and incident history; and

''(iii) any other information the Secretary considers appropriate to make such a determination.

''(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

''(A) a detailed description of the person's request;

''(B) a listing of the persons current facilities and addresses where the approval will be utilized;

''(C) a safety analysis prescribed by the Secretary that justifies the approval;

''(D) documentation to support the safety analysis;

''(E) a certification of safety fitness; and

''(F) the verification of registration required under section 5108.

''(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

''(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

''(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

''(2) the special permit or approval is unsafe.

''(j) RULEMAKING.—Not later than 2 years after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

''(1) standard operating procedures to support administration of the special permit and approval programs; and

''(2) objective criteria to support the evaluation of special permit and approval applications.

''(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

''(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

''(A) to identify consistently used and longstanding special permits with an established safety record; and

''(B) to determine whether such permits may be converted into the hazardous materials regulations.

''(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

''(A) the safety record for hazardous materials transported under the special permit;

''(B) the application of a special permit;

''(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

''(D) rulemaking activity in related areas.

''(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

''5117. Special permits, approvals, and exclusions.''.

SEC. 33014. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking ''In coordination'' and inserting the following:

''(1) IN GENERAL.—In coordination''; and

(2) by adding at the end the following:

''(2) STATE RESPONSIBILITIES.—

''(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

''(i) the name of the State agency responsible for hazardous material highway route designations; and

''(ii) a list of the State's currently effective hazardous material highway route designations.

''(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

''(i) at least once every 2 years; and

''(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.''.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting '', and is published in the Department's hazardous materials route registry under section 5112(c)'' before the period at the end.

SEC. 33015. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

''§ 5128. Authorization of appropriations

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

''(1) $42,338,000 for fiscal year 2012; and

''(2) $42,762,000 for fiscal year 2013.

''(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

''(1) $188,000 to carry out section 5115;

''(2) $21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than $13,650,000 shall be available to carry out section 5116(b);

''(3) $150,000 to carry out section 5116(f);

''(4) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

''(5) $1,000,000 to carry out section 5116(j).

''(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend $4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

''(d) CREDITS TO APPROPRIATIONS.—

''(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

''(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.''.

TITLE IV—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

SEC. 34001. SHORT TITLE.

This title may be cited as the ''Research and Innovative Technology Administration Reauthorization Act of 2012''.

SEC. 34002. NATIONAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

''(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs conducted by the National Academy of Sciences to ensure program efficiency, effectiveness, and sharing of research findings.''.

SEC. 34003. MULTIMODAL INNOVATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''§ 5507. Multimodal Innovative Research Program

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Multimodal Innovative Research Program (referred to in this section as the 'Program') in the Research and Innovative Technology Administration.

''(b) PURPOSE.—The Program shall support—

''(1) national transportation policy, objectives, and goals by applying state-of-the-art advanced technology solutions to multimodal transportation issues; and

''(2) key partnerships throughout the Department of Transportation and with other Federal agencies to fully leverage their investments in transportation research and technology developments to address transportation problems at modal interfaces or affecting more than 1 transportation mode.

''(c) CONTENT.—The Program shall—

''(1) address issues affecting—

''(A) policy;

''(B) cross-modal concerns, such as efficient and intermodal goods and passenger movements;

''(C) the development of advanced vehicle technologies;

''(D) the application of existing technologies; and

''(E) the integration of multimodal real-time transportation information systems;

''(2) competitively award contracts or cooperative agreements for advanced multimodal transportation research to facilitate practical innovative approaches to solve transportation problems related to attaining—

''(A) the strategic goals of the Department of Transportation; and

''(B) multimodal elements of the Transportation Research and Development Strategic Plan required under section 508 of title 23;

''(3) demonstrate transportation system applications of advanced transportation technologies, methodologies, policies, and decisions;

''(4) disseminate best practices in planning, operations, design, and maintenance of transportation and related systems; and

''(5) provide technology identification, modification, and dissemination through outreach to other Federal agencies, State and local transportation agencies, and other public, private, and academic stakeholders in the industry.

''(d) COORDINATION.—The Secretary of Transportation shall coordinate activities under this section with other Federal agencies, as appropriate.

''(e) FUNDING.—

''(1) IN GENERAL.—Of the amounts appropriated pursuant to section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012, $20,000,000 shall be made available for each of the fiscal year 2012 and 2013 to establish and maintain the Multimodal Innovative Research Program.

''(2) MANAGEMENT AND OVERSIGHT.—During each of the fiscal years 2012 and 2013, the Secretary of Transportation may not expend more than 1.5 percent of the amounts made available under paragraph (1) to carry out management and oversight of the Multimodal Innovative Research Program.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5506 the following:

''5507. Multimodal Innovative Research Program.''.

SEC. 34004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

''SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

''Sec.
''6301. Establishment.
''6302. Director.
''6303. Responsibilities.
''6304. National Transportation Library.
''6305. Advisory Council on Transportation Statistics.
''6306. Transportation statistical collection, analysis, and dissemination.
''6307. Furnishing information, data, or reports by Federal agencies.
''6308. Prohibition on certain disclosures.
''6309. Data access.
''6310. Proceeds of data product sales.
''6311. Information collection.
''6312. National transportation atlas database.
''6313. Limitations on statutory construction.
''6314. Research and development grants.
''6315. Transportation statistics annual report.
''6316. Mandatory response authority for data collections.

''SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

''§ 6301. Establishment

''There is established, in the Research and Innovative Technology Administration, a Bureau of Transportation Statistics (referred to in this subchapter as the 'Bureau').

''§ 6302. Director

''(a) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary of Transportation.

''(b) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

''§ 6303. Responsibilities

''(a) DUTIES OF THE DIRECTOR.—The Director, who shall serve as the Secretary of Transportation's senior advisor on data and statistics, shall be responsible for carrying out the following duties:

''(1) Ensuring that the statistics compiled under paragraph (6) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

''(2) Establishing a program, on behalf of the Secretary—

''(A) to effectively integrate safety data across modes; and

''(B) to address gaps in existing safety data programs of the Department of Transportation.

''(3) Working with the operating administrations of the Department of Transportation—

''(A) to establish and implement the Bureau's data programs; and

''(B) to improve the coordination of information collection efforts with other Federal agencies.

''(4) Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

''(5) Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

''(6) Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

''(A) transportation safety across all modes and intermodally;

''(B) the state of good repair of United States transportation infrastructure.

''(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6312;

''(D) economic efficiency throughout the entire transportation sector;

''(E) the effects of the transportation system on global and domestic economic competitiveness;

''(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

''(G) transportation-related variables that influence the domestic economy and global competitiveness;

''(H) the economic costs and impacts for passenger travel and freight movement;

''(I) intermodal and multimodal passenger movement;

''(J) intermodal and multimodal freight movement; and

''(K) the consequences of transportation for the human and natural environment, sustainable transportation, and livable communities.

''(7) Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906, including—

''(A) coordinating the development of transportation geospatial data standards;

''(B) compiling intermodal geospatial data; and

''(C) collecting geospatial data that is not being collected by others.

''(8) Issuing guidelines for the collection of information by the Department of Transportation that is required for transportation statistics, modeling, economic assessment, and program assessment in order to ensure that such information is accurate, reliable, relevant, uniform and in a form that permits systematic analysis by the Department.

''(9) Reviewing and reporting to the Secretary of Transportation on the sources and reliability of—

''(A) the statistics proposed by the heads of the operating administrations of the Department of Transportation to measure outputs and outcomes, as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285); and

''(B) other data collected or statistical information published by the heads of the operating administrations of the Department.

''(10) Making the statistics published under this subsection readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

''(b) ACCESS TO FEDERAL DATA.—In carrying out subsection (a)(2), the Director shall be provided access to—

''(1) all safety data held by any agency of the Department; and

''(2) all safety data held by any other Federal Government agency that is germane to carrying out subsection (a), upon written request and subject to any statutory or regulatory restrictions.

''(c) INTERMODAL TRANSPORTATION DATABASE.—

''(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation database for all modes of transportation.

''(2) USE OF DATABASE.—The database established under this subsection shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

''(3) CONTENTS.—The database established under this section shall include—

''(A) information on the volumes and patterns of movement, including local, interregional, and international movement—

''(i) of goods by all modes of transportation and intermodal combinations, and by relevant classification; and

''(ii) of people by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

''(B) information on the location and connectivity of transportation facilities and services; and

''(C) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

''§ 6304. National Transportation Library

''(a) PURPOSE AND ESTABLISHMENT.—There is established, in the Bureau, a National Transportation Library (referred to in this section as the 'Library'), which shall—

''(1) support the information management and decisionmaking needs of transportation at Federal, State, and local levels;

''(2) be headed by an individual who is highly qualified in library and information science;

''(3) acquire, preserve, and manage transportation information and information products and services for use of the Department of Transportation, other Federal agencies, and the general public;

''(4) provide reference and research assistance;

''(5) serve as a central depository for research results and technical publications of the Department of Transportation;

''(6) provide a central clearinghouse for transportation data and information in the Federal Government;

''(7) serve as coordinator and policy lead for transportation information access;

''(8) provide transportation information and information products and services to the Department of Transportation, other agencies of the Federal Government, public and private organizations, and individuals, within the United States and internationally;

''(9) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, toward the development of a comprehensive transportation information and knowledge network supporting activities described in subparagraphs (A) through (K) of section 6303(a)(6); and

''(10) engage in such other activities as the Director determines appropriate and as the Library's resources permit.

''(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a) to improve—

''(1) the ability of the transportation community to share information; and

''(2) the ability of the Director to make statistics and other information readily accessible under section 6303(a)(10).

''(c) AGREEMENTS.—

''(1) IN GENERAL.—The Director may enter into agreements with, award grants to, and receive funds from any State and other political subdivision, organization, business, or individual for the purpose of conducting activities under this section.

''(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to Department of Transportation's strategic goals, knowledge networking, and national and international cooperation by entering into contracts or awarding grants for the conduct of such activities.

''(3) FUNDS.—Amounts received under this subsection for payments for library products and services or other activities shall—

''(A) be deposited in the Research and Innovative Technology Administration's general fund account; and

''(B) remain available to the Library until expended.

''§ 6305. Advisory Council on Transportation Statistics

''(a) IN GENERAL.—The Director shall maintain an Advisory Council on Transportation Statistics (referred to in this section as the 'Advisory Council').

''(b) FUNCTION.—The Advisory Council shall advise the Director on—

''(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department of Transportation; and

''(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Council shall be composed of not fewer than 9 members and not more than 11 members, who shall be appointed by the Director.

''(2) SELECTION.—In selecting members for the Advisory Council, the Director shall appoint individuals who—

''(A) are not officers or employees of the United States;

''(B) possess expertise in—

''(i) transportation data collection, analysis, or application;

''(ii) economics; or

''(iii) transportation safety; and

''(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

''(3) TERMS OF APPOINTMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Council—

''(i) shall be appointed to staggered terms not to exceed 3 years; and

''(ii) may be renominated for 1 additional 3-year term.

''(B) CURRENT MEMBERS.—Members serving on the Advisory Council as of the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012 shall serve until the end of their appointed terms.

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (except for section 14 of such Act) shall apply to the Advisory Council.

''§ 6306. Transportation statistical collection, analysis, and dissemination

''To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

''(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement for such utilization;

''(2) enter into agreements with agencies and instrumentalities referred to in paragraph (1) for purposes of data collection and analysis;

''(3) confer and cooperate with foreign governments, international organizations, States, municipalities, and other local agencies;

''(4) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section;

''(5) encourage replication, coordination, and sharing among transportation agencies regarding information systems, information policy, and data; and

''(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this section, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

''§ 6307. Furnishing information, data, or reports by Federal agencies

''Federal agencies requested to furnish information, data, or reports under section 6303(b) shall provide such information to the Bureau as is required to carry out the purposes of this section.

''§ 6308. Prohibition on certain disclosures

''(a) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

''(1) make any disclosure in which the data provided by an individual or organization under section 6303 can be identified;

''(2) use the information provided under section 6303 for a nonstatistical purpose; or

''(3) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6303.

''(b) COPIES OF REPORTS.—

''(1) IN GENERAL.—A department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may not require, for any reason, a copy of any report that has been filed under section 6303 with the Bureau or retained by an individual respondent.

''(2) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in paragraph (1) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

''(A) shall be immune from legal process; and

''(B) may not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

''(3) APPLICABILITY.—This subsection shall only apply to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

''(c) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of such data or information, by rule and on the collection instrument, to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

''§ 6309. Data access

''The Director shall be provided access to transportation and transportation-related information in the possession of any Federal agency, except—

''(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

''(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

''§ 6310. Proceeds of data product sales

''Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

''§ 6311. Information collection

''As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities under this subchapter.

''§ 6312. National transportation atlas database

''(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

''(1) transportation networks;

''(2) flows of people, goods, vehicles, and craft over the networks; and

''(3) social, economic, and environmental conditions that affect, or are affected by, the networks.

''(b) INTERMODAL NETWORK ANALYSIS.—The databases developed under subsection (a) shall be capable of supporting intermodal network analysis.

''§ 6313. Limitations on statutory construction

''Nothing in this subchapter may be construed—

''(1) to authorize the Bureau to require any other department or agency to collect data; or

''(2) to reduce the authority of any other officer of the Department to independently collect and disseminate data.

''§ 6314. Research and development grants

''The Secretary may award grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects specified in section 6303 and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

''(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

''(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under section 6304; and

''(4) development and improvement of methods for sharing geographic data, in support of the database under section 6303 and the National Spatial Data Infrastructure.

''§ 6315. Transportation statistics annual report

''The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

''(1) information on items referred to in section 6303(a)(6);

''(2) documentation of methods used to obtain and ensure the quality of the statistics presented in the report; and

''(3) recommendations for improving transportation statistical information.

''§ 6316. Mandatory response authority for data collections

''Any individual who, as the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, organization of any nature or the member of a household, neglects or refuses, after requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual's knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization or household, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under section 6303(a)—

''(1) shall be fined not more than $500, except as provided under paragraph (2); and

''(2) if the individual willfully gives a false answer to such a question, shall be fined not more than $10,000.''.

(b) RULES OF CONSTRUCTION.—In transferring the provisions under section 111 of title 49, United States Code, to chapter 63 of title 49, as added by subsection (a), the following rules of construction shall apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a provision under chapter 63 of title 49, United States Code, is deemed to have been enacted on the date of the enactment of the corresponding provision under section 111 of such title.

(2) A reference to a provision under such chapter 65 is deemed to refer to the corresponding provision under such section 111.

(3) A reference to a provision under such section 111, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision under such chapter 65.

(4) A regulation, order, or other administrative action authorized by a provision under such section 111 continues to be authorized by the corresponding provision under such chapter 65.

(5) An action taken or an offense committed under a provision of section 111 is deemed to have been taken or committed under the corresponding provision of chapter 65.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Chapter 1 of title 49, United States Code, is amended—

(A) by repealing section 111; and

(B) by striking the item relating to section 111 in the chapter analysis.

(2) ANALYSIS OF SUBTITLE III.—The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

''63. Bureau of Transportation Statistics . . . . . 6301''.

SEC. 34005. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, as amended by section 34003, is further amended by adding at the end the following:

''§ 5508. GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

''(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

''(1) defines a recommended implementation path for Dedicated Short Range Communications (DSRC) technology and applications; and

''(2) includes guidance concerning the relationship of the proposed DSRC deployment to Intelligent Transportation System National Architecture and Standards.

''(b) REPORT REVIEW.—The Secretary shall enter into an agreement for the review of the

report submitted under subsection (a) by an independent third party with subject matter expertise.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5507, as added by section 34003, the following:

''5508. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.''.

SEC. 34006. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by inserting after subsection (e) the following:

''(f) PROGRAM EVALUATION AND OVERSIGHT.—The Administrator is authorized to expend not more than 1.5 percent of the amounts authorized to be appropriated for each of the fiscal years 2012 and 2013, for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

''(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

''(B) Federal laboratories; and

''(C) other Federal agencies.

''(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, other transactions, and cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, universities, associations, and the agents of such entities to conduct joint transportation research and technology efforts.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection may not exceed 50 percent unless the Secretary approves a greater Federal share due to substantial public interest or benefit.

''(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract, grant, or other agreement entered into under this chapter.''.

SEC. 34007. PRIZE AUTHORITY.

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

''SEC. 335. PRIZE AUTHORITY.

''(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

''(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

''(1) consult with a wide variety of Government and nongovernment representatives; and

''(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

''(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

''(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

''(1) the subject of the competition;

''(2) the eligibility rules for participation in the competition;

''(3) the amount of the prize; and

''(4) the basis on which a winner will be selected.

''(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

''(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

''(2) has complied with all the requirements under this section;

''(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

''(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

''(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

''(f) LIABILITY.—

''(1) ASSUMPTION OF RISK.—

''(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

''(B) RELATED ENTITY.—In this paragraph, the term 'related entity' means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

''(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

''(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

''(B) the Federal Government for damage or loss to Government property resulting from such an activity.

''(g) JUDGES.—

''(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

''(2) LIMITATIONS.—A judge selected under this subsection may not—

''(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

''(B) have a familial or financial relationship with an individual who is a registered participant.

''(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

''(i) FUNDING.—

''(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

''(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

''(A) shall remain available until expended; and

''(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

''(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

''(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

''(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

''(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

''(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

''(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in cash prizes without the approval of the Secretary.

''(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department's name, initials, or insignia only after prior review and written approval by the Secretary.

''(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

''335. Prize authority.''.

SEC. 34008. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''SAFETEA–LU'' and inserting ''Research and Innovative Technology Administration Reauthorization Act of 2012''; and

(2) by amending paragraph (2)(A) to read as follows:

''(A) describe the primary purposes of the transportation research and development program, which shall include—

''(i) promoting safety;

''(ii) reducing congestion and improving mobility;

''(iii) promoting security;

''(iv) protecting and enhancing the environment;

''(v) preserving the existing transportation system; and

''(vi) improving transportation infrastructure, in coordination with Department of Transportation strategic goals and planning efforts;''.

SEC. 34009. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

''§ 513. Use of funds for ITS activities

''(a) IN GENERAL.—The Secretary may use not more than $500,000 of the amounts made available to the Department for each fiscal year to carry out the Intelligent Transportation Systems Program (referred to in this section as 'ITS') on intelligent transportation system outreach, websites, public relations, displays, tours, and brochures.

''(b) PURPOSE.—Amounts authorized for use under subsection (a) are intended to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

''(c) ITS DEPLOYMENT INCENTIVES.—

''(1) IN GENERAL.—The Secretary may develop and implement incentives to accelerate the deployment of ITS technologies and services within all programs receiving amounts appropriated pursuant to section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012.

''(2) COMPREHENSIVE PLAN.—The Secretary shall develop a detailed and comprehensive plan to carry out this subsection that addresses how incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.''.

SEC. 34010. NATIONAL TRAVEL DATA PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, as amended by sections __4003 and __4005, is further amended by adding at the end the following:

''§ 5509. National Travel Data Program

''(a) ESTABLISHMENT.—Not later than 18 months after the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012, the Secretary of Transportation shall establish the National Travel Data Program (referred to in this section as the ''Program'') to collect essential national passenger and freight travel data to help guide transportation operations, policy, and investment decisions for Federal, State, and local governments and the private sector.

''(b) PROGRAM ELEMENTS.—In carrying out the Program, the Secretary shall—

''(1) collect data and make such data available to support transportation operations, policy, and investment decisions, including data on system performance, safety, international competitiveness, energy efficiency, and changes in demographics;

''(2) improve the quality of the data collected under the Program, including identifying and addressing current gaps in passenger and freight travel data collection, such as the sample sizes and frequency of transportation surveys including the Commodity Flow Survey, the National Household Travel Survey, and the Transportation Services Index; and

''(3) consult with State and local governments, private sector data providers, and professional and nonprofit associations to improve the integration, management, and implementation of data collected under the Program.

''(c) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

''(1) ESTABLISHMENT.—In carrying out the Program, the Secretary shall seek recommendations from the Advisory Council on Transportation Statistics, established under section 6305 on—

''(A) the design and implementation of the Program;

''(B) emerging transportation-related data needs relevant to the Program; and

''(C) other matters the Secretary determines to be appropriate.

''(d) REPORTS TO CONGRESS.—

''(1) 5-YEAR PLAN.—Not later than 1 year after the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012, the Secretary shall submit, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a 5-year plan for implementing the National Travel Data Program that includes benchmarks and goals.

''(2) BIENNIAL REPORT.—Upon the establishment of the National Travel Data Program, and every 2 years thereafter, the Secretary shall submit a report on the activities of the Program to the congressional committees set forth in paragraph (1).

''(e) FUNDING.—Of the amounts made available under section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012, $8,000,000 shall be available for each of the fiscal years 2012 and 2013 to establish and maintain the Program.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, as amended by sections 3 and 5, is further amended by inserting after the item relating to section 5508 the following:

''5509. National Travel Data Program.''.

SEC. 34011. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), under the conditions set forth in subsection (b)—

(1) $55,297,000 for fiscal year 2012; and

(2) $55,597,000 for fiscal year 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts appropriated pursuant to subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out with amounts appropriated pursuant to subsection (a) shall be 50 percent unless another percentage is—

(A) expressly provided under this Act or the amendments made by this Act; or

(B) determined by the Secretary.

(3) AVAILABILITY; TRANSFERABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended and shall not be transferable.

DIVISION D—FINANCE

SEC. 40001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Highway Investment, Job Creation, and Economic Growth Act of 2012''.

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

DIVISION D—FINANCE

Sec. 40001. Short title; table of contents.

TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

Sec. 40101. Extension of trust fund expenditure authority.

Sec. 40102. Extension of highway-related taxes.

TITLE II—OTHER PROVISIONS

Sec. 40201. Temporary increase in small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 40202. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.

Sec. 40203. Issuance of TRIP bonds by State infrastructure banks.

Sec. 40204. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.

Sec. 40205. Exempt-facility bonds for sewage and water supply facilities.

TITLE III—REVENUE PROVISIONS

Sec. 40301. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.

Sec. 40302. Portion of Leaking Underground Storage Tank Trust Fund financing rate transferred to Highway Trust Fund.

Sec. 40303. Transfer of gas guzzler taxes to Highway Trust Fund.

Sec. 40304. Revocation or denial of passport in case of certain unpaid taxes.

Sec. 40305. 100 percent continuous levy on payments to Medicare providers and suppliers.

Sec. 40306. Transfer of amounts attributable to certain duties on imported vehicles into the Highway Trust Fund.

Sec. 40307. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

Sec. 40308. Internal Revenue Service levies and Thrift Savings Plan Accounts.

Sec. 40309. Depreciation and amortization rules for highway and related property subject to long-term leases.

Sec. 40310. Extension for transfers of excess pension assets to retiree health accounts.

Sec. 40311. Transfer of excess pension assets to retiree group term life insurance accounts.

Sec. 40312. Pension funding stabilization.

TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting ''October 1, 2013''; and

(2) by striking ''Surface Transportation Extension Act of 2011, Part II'' in subsections (c)(1) and (e)(3) and inserting ''Moving Ahead for Progress in the 21st Century Act''.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Surface Transportation Extension Act of 2011, Part II'' each place it appears in subsection (b)(2) and inserting ''Moving Ahead for Progress in the 21st Century Act''; and

(2) by striking ''April 1, 2012'' in subsection (d)(2) and inserting ''October 1, 2013''.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking ''April 1, 2012'' and inserting ''October 1, 2013''.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Solvency Account' consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

''(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

''(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

''(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of $2,800,000,000 on September 30, 2013.

''(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking ''March 31, 2012'' and inserting ''September 30, 2015'':

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking ''April 1, 2012'' and inserting ''October 1, 2015'':

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking ''2012'' and inserting ''2015'':

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' each place it appears and inserting ''October 1, 2015'';

(2) by striking ''September 30, 2012'' each place it appears and inserting ''March 31, 2016''; and

(3) by striking ''July 1, 2012'' and inserting ''January 1, 2016''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal Revenue Code of 1986 are each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking ''April 1, 2012'' each place it appears in paragraphs (1) and (2) and inserting ''October 1, 2015'';

(ii) by striking ''APRIL 1, 2012'' in the heading of paragraph (2) and inserting ''OCTOBER 1, 2015'';

(iii) by striking ''March 31, 2012'' in paragraph (2) and inserting ''September 30, 2015''; and

(iv) by striking ''January 1, 2013'' in paragraph (2) and inserting ''July 1, 2016''; and

(B) in subsection (c)(2), by striking ''January 1, 2013'' and inserting ''July 1, 2016''.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking ''April 1, 2013'' each place it appears and inserting ''October 1, 2016''; and

(ii) by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 2012.

(2) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) shall apply to periods beginning after September 30, 2012.

TITLE II—OTHER PROVISIONS

SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2009 or 2010'' in clause (i) and inserting ''2009, 2010, or 2012'',

(2) by striking ''2009 or 2010'' each place it appears in clauses (ii) and (iii) and inserting ''2009, 2010, or the period beginning after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'', and

(3) by striking ''2009 AND 2010'' in the heading and inserting ''2009, 2010, AND 2012''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting '', or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'' after ''January 1, 2011'';

(2) in subclause (III) by inserting ''before January 1, 2011'' after ''which is issued''; and

(3) by striking ''AND 2010'' in the heading and inserting '', 2010, AND PORTIONS OF 2012''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting '', or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'' after ''January 1, 2011'';

(2) in subclause (III) by inserting ''before January 1, 2011'' after ''which is issued''; and

(3) by striking ''AND 2010'' in the heading and inserting '', 2010, AND PORTIONS OF 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

''(4) TRIP BOND ACCOUNT.—

''(A) IN GENERAL.—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

''(B) TRIP BOND.—For purposes of this section, the term 'TRIP bond' means any bond issued as part of an issue if—

''(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

''(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

''(iii) the State infrastructure bank designates such bond for purposes of this section, and

''(iv) the term of each bond which is part of such issue does not exceed 30 years.

''(C) QUALIFIED PROJECT.—For purposes of this subparagraph, the term 'qualified project' means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.'',

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

''(D) TRIP BOND ACCOUNT..—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.'', and

(4) by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.—

''(A) IN GENERAL.—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

''(B) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(i) funds made available under the TRIP bond account for similar qualified projects, and

''(ii) similar qualified projects assisted through the use of such funds.''.

SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011.

SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).''.

(b) CONFORMING CHANGE.—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking ''paragraph (4), (5), (6), or (10) of section 142(a)'' and inserting ''paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE III—REVENUE PROVISIONS

SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Amounts'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts'', and

(2) by adding at the end the following new paragraph:

''(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated $3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.''.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).''.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting ''or transferred'' after ''appropriated'', and

(B) by striking ''APPROPRIATED'' in the heading thereof.

SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

''(A) section 4041(d) (relating to additional taxes on motor fuels),

''(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

''(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting ''two-thirds of the'' before ''taxes''.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(B) section 4064 (relating to gas guzzler tax),''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.

''(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of $50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.

''(b) SERIOUSLY DELINQUENT TAX DEBT.—For purposes of this section, the term 'seriously delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include—

''(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

''(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

''(c) ADJUSTMENT FOR INFLATION.—In the case of a calendar year beginning after 2012, the dollar amount in subsection (a) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next highest multiple of $1,000.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.''.

(c) AUTHORITY FOR INFORMATION SHARING.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

''(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer, and

''(ii) the amount of such seriously delinquent tax debt.

''(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking ''or (22)'' each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting ''(22), or (23)''.

(d) REVOCATION AUTHORIZATION.—The Act entitled ''An Act to regulate the issue and validity of passports, and for other purposes'', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ''Passport Act of 1926'', is amended by adding at the end the following:

''SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.

''(a) INELIGIBILITY.—

''(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification

described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

''(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

''(b) EXCEPTIONS.—

''(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

''(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

''(A) limit a previously issued passport or passport card only for return travel to the United States; or

''(B) issue a limited passport or passport card that only permits return travel to the United States.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting '', or to a Medicare provider or supplier under title XVIII of the Social Security Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to duties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.''.

SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.

Section 8437(e)(3) of title 5, United States Code, is amended by inserting '', the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,'' after ''(42 U.S.C. 659)''.

SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.

(a) ACCELERATED COST RECOVERY.—

(1) IN GENERAL.—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any applicable leased highway property,''.

(2) RECOVERY PERIOD.—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) Applicable leased highway property ..... 45 years.''.

(3) APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.—

(A) IN GENERAL.—Section 168(g) of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) APPLICABLE LEASED HIGHWAY PROPERTY.—For purposes of paragraph (1)(E)—

''(A) IN GENERAL.—The term 'applicable leased highway property' means property to which this section otherwise applies which—

''(i) is subject to an applicable lease, and

''(ii) is placed in service before the date of such lease.

''(B) APPLICABLE LEASE.—The term 'applicable lease' means a lease or other arrangement—

''(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and

''(ii) under which the taxpayer—

''(I) leases a highway and associated improvements,

''(II) receives a right-of-way on the public lands underlying such highway and improvements, and

''(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway.''.

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(g)(1) (as redesignated by subsection (a)(1)) is amended by striking ''paragraph (7)'' and inserting ''paragraph (8)''.

(b) AMORTIZATION OF INTANGIBLES.—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(11) INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease.''.

(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e) of the Internal Revenue Code of 1986 is amended by inserting '', or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))'' after ''premises''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) NO PRIVATE ACTIVITY BOND FINANCING.—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2013'' and inserting ''December 31, 2021''.

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking ''Pension Protection Act of 2006'' and inserting ''Highway Investment, Job Creation, and Economic Growth Act of 2012''.

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking ''January 1, 2014'' and inserting ''January 1, 2022''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting '', or an applicable life insurance account,'' after ''health benefits account''.

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term 'applicable life insurance account' means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.''.

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term 'applicable life insurance benefits' means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the

cost of such coverage is excludable from the retired employee's gross income under section 79.''.

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term 'collectively bargained life insurance benefits' means, with respect to any collectively bargained transfer—

''(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

''(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.''.

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking ''upon retirement'' and inserting ''by reason of retirement''.

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking ''which are provided to'' in the matter preceding clause (i),

(II) by inserting ''which are provided to'' before ''retired employees'' in clause (i),

(III) by striking ''upon retirement'' in clause (i) and inserting ''by reason of retirement'', and

(IV) by striking ''active employees who, following their retirement,'' and inserting ''which will be provided at retirement to employees who are not retired employees at the time of the transfer and who''.

(c) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting '', and each group-term life insurance plan under which applicable life insurance benefits are provided,'' after ''health benefits are provided''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

''(I) separately with respect to applicable health benefits and applicable life insurance benefits,'', and

(ii) by striking ''for applicable health benefits'' and all that follows in clause (ii) and inserting ''was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.''.

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting ''for applicable health benefits'' after ''applied separately'', and

(ii) by inserting '', and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year'' before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting ''or retiree life insurance coverage, as the case may be,'' after ''retiree health coverage'', and

(ii) in clause (ii), by inserting ''FOR RETIREE HEALTH COVERAGE'' after ''COST REDUCTIONS'' in the heading thereof, and

(iii) in clause (ii)(II), by inserting ''with respect to applicable health benefits'' after ''liabilities of the employer''.

(D) Paragraph (2) of section 420(f) of such Code is amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting '', and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,'' in subclause (I) after ''applicable health benefits are provided'',

(ii) by inserting ''or applicable life insurance benefits, as the case may be,'' in subclause (I) after ''provides applicable health benefits'',

(iii) by striking ''group health'' in subclause (II), and

(iv) by inserting ''or collectively bargained life insurance benefits'' in subclause (II) after ''collectively bargained health benefits''.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting ''with respect to applicable health benefits or applicable life insurance benefits'' after ''requirements of subsection (c)(3)'', and

(ii) by adding at the end the following: ''Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.''

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking ''retiree'' each place it occurs, and

(ii) by inserting '', collectively bargained life insurance benefits, or both, as the case may be,'' after ''health benefits'' each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking ''qualified current retiree health liabilities'' each place it appears and inserting ''qualified current retiree liabilities''.

(2) Section 420 of such Code is amended by inserting '', or an applicable life insurance account,'' after ''a health benefits account'' each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): ''If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.'', and

(B) by inserting ''to an account'' after ''may be transferred'' in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting ''OR LIFE INSURANCE'' after ''HEALTH BENEFITS''.

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting ''and applicable life insurance benefits'' in subparagraph (A) after ''applicable health benefits'', and

(B) by striking ''HEALTH'' in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting ''(determined separately for applicable health benefits and applicable life insurance benefits)'' after ''shall be reduced by the amount'',

(B) in clause (i), by inserting ''or applicable life insurance accounts'' after ''health benefit accounts'', and

(C) in clause (i), by striking ''qualified current retiree health liability'' and inserting ''qualified current retiree liability''.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking ''HEALTH'' each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting ''or applicable life insurance account, as the case may be,'' after ''health benefits account''.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting ''defined benefit'' before ''plan maintained by an employer'', and

(B) by inserting ''health'' before ''benefit plans maintained by the employer''.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting '', in the case of a transfer to a health benefits account,'' before ''his covered spouse and dependents'', and

(B) in clause (ii), by striking ''health plan'' and inserting ''plan''.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting '', and collectively bargained life insurance benefits,'' after ''collectively bargained health benefits'',

(B) in clause (ii)—

(i) by adding at the end the following: ''The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.'', and

(ii) by inserting '', applicable life insurance accounts,'' after ''health benefit accounts'', and

(C) by striking ''HEALTH'' in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking ''bargained health'' and inserting ''bargained'',

(B) by inserting '', or a group-term life insurance plan or arrangement for retired employees,'' after ''dependents'' , and

(C) by striking ''HEALTH'' in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting ''or applicable life insurance account'' after ''health benefits account'' each place it appears, and

(B) in paragraph (1), by inserting ''or applicable life insurance benefit liabilities'' after ''health benefits liabilities''.

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking ''416(I)(1)'' and inserting ''416(i)(1)''.

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''in a taxable year beginning after December 31, 1990''.

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking ''PER YEAR.—'' and all that follows through ''No more than'' and inserting ''PER YEAR.—No more than''.

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking ''BEFORE TRANSFER.—'' and all that follows through ''The requirements of this paragraph'' and inserting the following: ''BEFORE TRANSFER.—The requirements of this paragraph''.

(5) Paragraph (2) of section 420(d) of such Code is amended by striking ''after December 31, 1990''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting ''(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)'' before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking ''section 430(h)(2)(C)'' and inserting ''section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary of the Treasury) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(d) TRANSFER TO HIGHWAY TRUST FUND.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) ADDITIONAL APPROPRIATION TO FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated $1,588,000,000 to the Highway Trust Fund.''.

SA 1634. Mr. REID proposed an amendment to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following:

(e) Effective Date

This division shall become effective 4 days after enactment.

SA 1635. Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following new section:

SEC. ____.

This Act shall become effective 3 days after enactment.

SA 1636. Mr. REID proposed an amendment to amendment SA 1635 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike ''3 days'' and insert ''2 days''.

SA 1637. Mr. REID proposed an amendment to amendment SA 1636 proposed by Mr. REID to the amendment SA 1635 proposed by Mr. Reid to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike ''2 days'' and insert ''1 day''.

SA 1638. Mr. CORKER (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, strike line 19 and insert the following:

habitats.

''(K) Any project or activity carried out using amounts from the Mass Transit Account of the Highway Trust Fund.''; and

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SA 1639. Ms. KLOBUCHAR (for herself and Mr. SESSION) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 509, between lines 2 and 3, insert the following:

''(I) HIGH-RISK RURAL ROADS BEST PRACTICES.—

''(i) STUDY.—

''(I) IN GENERAL.—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

''(II) METHODOLOGY.—In carrying out the study, the Secretary shall—

''(aa) conduct a thorough literature review;

''(bb) survey current practices of State departments of transportation; and

''(cc) survey current practices of local units of government, as appropriate.

''(III) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

''(aa) State departments of transportation;

''(bb) county engineers and public works professionals;

''(cc) appropriate local officials; and

''(dd) appropriate private sector experts in the field of roadway safety infrastructure.

''(ii) REPORT.—

''(I) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

''(II) CONTENTS.—The report shall include—

''(aa) a summary of cost-effective roadway safety infrastructure improvements;

''(bb) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

''(cc) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

''(iii) MANUAL.—

''(I) DEVELOPMENT.—Based on the results of the study under clause (ii), the Secretary, in consultation with the individuals and entities described in clause (i)(III), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

''(II) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under clause (ii).

''(III) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

''(IV) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.''.

SA 1640. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, line 15, after ''2009'', insert the following: '', after subtracting the amounts provided under sections 1301, 1302, and 1934 of the SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1198, 1204, 1485)''.

On page 44, line 18, after ''fiscal years'', insert the following: '', after subtracting the amounts provided under sections 1301, 1302, and 1934 of the SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1198, 1204, 1485)''.

SA 1641. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 598, strike lines 11 through 15 and insert the following:

''(3) APPLICATION.—

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

''(B) PUBLIC-PRIVATE PARTNERSHIPS.—A State, local government, or public authority may submit a project application to the Secretary under which a private party to a public-private partnership for a project—

''(i) would be the sole obligor; and

''(ii) is to be identified at a later date through the completion of a procurement and selection of the private party.

On page 599, between lines 23 and 24, insert the following:

''(7) PROJECT READINESS.—An applicant under this section shall demonstrate that the contracting process for construction of the project will commence not later than the date that is 90 days after the date on which the application is approved.

On page 601, strike line 9 and insert the following:

''(c) APPROVAL OF APPLICATIONS AND FUNDING.—

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

''(A) approve applications for projects that meet the criteria under subsection (a) in the order in which the Secretary receives the applications; and

''(B) commit, or conditionally commit, budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for the projects.

''(2) INSUFFICIENT FUNDS.—If the Secretary approves an application submitted for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of—

''(A) receiving the financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year; or

''(B) paying the subsidy amount from other available sources, including from funds apportioned under chapter 1 of this title or chapter 53 of title 49.

''(d) APPLICATION AND CREDIT PROCESSING PROCEDURES.—

''(1) ESTABLISHMENT.—The Secretary shall establish procedures for—

''(A) processing applications requesting financial assistance for projects that are received under this chapter;

''(B) approving, conditionally approving, or disapproving an application received under this chapter based on whether the projects will meet the criteria under subsection (a); and

''(C) processing term sheets, credit review and approval, credit commitments, and final agreements for credit assistance.

''(2) APPLICATION PROCESSING PROCEDURES.—The procedures established under paragraph (1)—

''(A) shall not restrict the time period during which applications may be filed;

''(B) shall ensure that—

''(i) the Secretary shall be required to provide written notice to an applicant, not later than the date that is 15 days after the date of receipt of the application, informing the applicant of whether the application is complete;

''(ii) if the application is complete, the Secretary shall be required to provide written notice to the applicant, not later than 60 days after the date on which the written notice under clause (i) is issued, informing the applicant of whether the Secretary has approved, conditionally approved, or disapproved the application;

''(iii) if the application is not complete, the Secretary shall be required to provide written notice to the applicant, together with the written notice issued for the application under clause (i), informing the applicant of the information and materials needed to complete the application; and

''(iv) if the Secretary does not provide written notice to an applicant under clause (i) in the 15-day period specified in that clause—

''(I) the application shall be considered to be complete;

''(II) the Secretary shall be required to provide written notice to the applicant, not later than the date that is 60 days after the last day of the 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application; and

''(III) the Secretary shall be required to provide written notice to the applicant, not later than the date that is 60 days after the last day of the 15-day period, informing the applicant of whether the Secretary has approved, conditionally approved, or disapproved the application;

''(C) shall not use eligibility criteria that are supplemental to those criteria that are established by this chapter;

''(D) shall require approval of an application if the project meets the eligibility criteria under subsection (a); and

''(E) shall require that any written notice of disapproval of an application shall—

''(i) identify the eligibility criteria that are not satisfied; and

''(ii) contain an explanation of the deficiencies that resulted in failure to meet the criteria.

''(3) SPECIAL PROCEDURES FOR CREDITWORTHINESS.—The Secretary shall conditionally approve an application based on the pro forma plan of finance of the applicant and gather and analyze after the conditional approval any further information necessary to determine the creditworthiness of the applicant, if the Secretary determines that—

''(A)(i) the project described in an application is potentially creditworthy; but

''(ii) the Secretary lacks complete information to determine that the project is creditworthy; and

''(B) the project meets the other criteria for eligibility for financial assistance under this chapter.

''(4) SPECIAL PROCEDURES FOR LATER-IDENTIFIED OBLIGOR.—For applications that are approved or conditionally approved, the Secretary shall establish and follow procedures—

''(A) during the period between approval or conditional approval and selection of the private party as the obligor, requiring—

''(i) constructive engagement with the applicant and the potential obligors;

''(ii) diligent processing and approval of the term sheet;

''(iii) the conduct of due diligence;

''(iv) the review and setting of terms for credit assistance;

''(v) the preparation and approval of a conditional credit commitment; and

''(vi) any other activity necessary to advance the credit assistance to the maximum extent practicable; and

''(B) not later than 90 days after the date on which the applicant identifies the private party that will be the obligor, requiring—

''(i) the completion of the creditworthiness determination;

''(ii) the assistance of the private party in satisfying credit conditions; and

''(iii) the execution of final agreements for the credit assistance.

''(5) APPLICATION APPROVAL.—Approval or conditional approval of an application for a project under subsection (a) qualifies the project for execution of a term sheet establishing a conditional commitment of credit assistance.

''(e) FEDERAL REQUIREMENTS.—

SA 1642. Ms. SNOWE (for herself, Ms. KLOBUCHAR, and Mr. RUBIO) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Defense and in cooperation with the States, shall establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses.

(b) ACCELERATED LICENSING PROCEDURES.—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver's license; and

(2) obtained, during military service, driving experience that, in the determination of the Secretary of Transportation, makes the use of accelerated licensing procedures appropriate.

(c) DEFINITIONS.—In this section:

(1) COMMERCIAL DRIVER'S LICENSE.—The term ''commercial driver's license'' has the meaning given that term in section 31301 of title 49, United States Code.

(2) STATE.—The term ''State'' has the meaning given that term in such section.

(3) VETERAN.—The term ''veteran'' has the meaning given that term in section 101 of title 38, United States Code.

SA 1643. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, line 4, insert '', programs, and technical assistance'' after ''Projects''.

SA 1644. Ms. SNOWE (for herself, Mr. WHITEHOUSE, Ms. COLLINS, Mr. SANDERS, Mr. REED, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, between lines 9 and 10, insert the following:

''(3) USE OF FUNDS FOR OTHER ACTIVITIES.—Notwithstanding paragraph (1) and subsection (c), the Secretary may permit a State to use amounts apportioned to the State for the congestion mitigation and air quality improvement program under section 104(b)(4) to carry out any activity on a system that was eligible for funding under that program as in effect on December 31, 2010.

SA 1645. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INFLATION ADJUSTMENT FOR TAX ON GASOLINE AND DIESEL FUEL.

(a) ADJUSTMENT FOR MANUFACTURER LEVEL TAX.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 is amended by redesignating section 4084 as section 4085 and inserting after section 4083 the following new section:

''SEC. 4084. INFLATION ADJUSTMENT FOR GASOLINE, KEROSENE, AND DIESEL FUEL.

''(a) IN GENERAL.—In the case of any calendar year beginning after 2012, each of the specified amounts shall be adjusted by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(b) SPECIFIED AMOUNTS.—For purposes of subsection (a), the specified amounts are—

''(1) the 18.3 cent amount under section 4081(a)(2)(A)(i),

''(2) the 24.3 cent amount under section 4081(a)(2)(A)(iii), and

''(3) the 19.7 cent amount under section 4081(a)(2)(D).

''(c) ROUNDING.—If any amount as adjusted under subsection (a) is not a multiple of 0.1 cents, such amount shall be rounded to the next highest multiple of 0.1 cents.

''(d) FLOOR STOCKS TAX.—

''(1) IN GENERAL.—There is hereby imposed on any applicable fuel held on an inflation adjustment date, by any person a tax equal to—

''(A) the tax which would have been imposed under section 4081 on the day before such inflation adjustment date on such applicable fuel had the most recent inflation adjustment under subsection (a) been in effect at all times before such inflation adjustment date, reduced by

''(B) the tax imposed under section 4081 on such applicable fuel before such inflation adjustment date.

''(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

''(A) LIABILITY FOR TAX.—A person holding an applicable fuel on an inflation adjustment date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

''(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

''(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the inflation adjustment date.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) HELD BY A PERSON.—An applicable fuel shall be considered as 'held by a person' if title thereto has passed to such person (whether or not delivery to the person has been made).

''(B) APPLICABLE FUEL.—The term 'applicable fuel' means gasoline (other than aviation gasoline), diesel fuel, and kerosene.

''(C) INFLATION ADJUSTMENT DATE.—The term 'inflation adjustment date' means any date on which there is an increase in tax by reason of an adjustment under subsection (a).

''(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to applicable fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

''(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on applicable fuel held in the tank of a vehicle.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(a)(2)(D) of the Internal Revenue Code of 1986 is amended by striking ''for '24.3 cents'' and inserting ''for the dollar applicable thereunder.''

(B) The table of sections for subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 is amended by redesignating the item relating to section 4084 as relating to section 4085 and by inserting after the item relating to section 4083 the following new item:

''Sec. 4084. Inflation adjustment for gasoline, kerosene, and diesel fuel.''.

(b) ADJUSTMENT FOR RETAIL TAX.—Section 4041 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(c) INFLATION ADJUSTMENT FOR CERTAIN TAX RATES.—

''(1) IN GENERAL.—In the case of any calendar year beginning after 2012, each of the specified amounts shall be adjusted by an amount equal to—

''(A) such amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIFIED AMOUNT.—For purposes of paragraph (1), the specified amounts are—

''(A) the 24.3 cent amount under subsection (a)(2)(B)(ii),

''(B) the 18.3 cent amount under subsection (a)(3),

''(C) the 9.15 cent amount under subsection (m)(1)(A)(i), and

''(D) the 11.3 cent amount under subsection (m)(1)(A)(ii).

''(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of 0.1 cents, such amount shall be rounded to the next highest multiple of 0.1 cents.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel removed, entered, sold, or used after December 31, 2012.

SA 1646. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. _____. MAKE IT IN AMERICA MANUFACTURING EXTENSION PARTNERSHIP.

(a) MEMORANDUM OF AGREEMENT.—The term ''Memorandum of Agreement'' means the August 2011 Memorandum of Agreement between the Department of Transportation and the Department of Commerce entitled ''Development of a Domestic Supply Base for Intermodal Transportation in the U.S.''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) collaboration between the Department of Transportation and the Department of Commerce can significantly improve the scope and depth of the domestic supply base for transportation infrastructure, particularly for small businesses in the United States; and

(2) the Memorandum of Agreement should remain in effect until at least September 30, 2013.

(c) IMPLEMENTATION.—The Secretary shall—

(1) prioritize the implementation of the Memorandum of Agreement; and

(2) allocate such Department resources and personnel as necessary for such implementation.

(d) REPORT TO CONGRESS.—The Secretary, or a designee of the Secretary, shall submit an annual report to Congress regarding the progress made under the Memorandum of Agreement that contains—

(1) quantifiable performance metrics regarding the domestic supply base for transportation projects;

(2) appropriate recommendations for further ways to enhance the Make it in America Manufacturing Extension Partnership; and

(3) appropriate findings regarding specific impediments to compliance with Buy America requirements under this Act or under any other Act.

SA 1647. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, section 5323(j)(2) of title 49, United States Code, or section 24305(f)(4), 24405(a)(2), or 50101(b) of such title, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 30 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(b) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subsection (a)(1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(1) addresses the public comments received under subsection (a)(1); and

(2) is published before the waiver takes effect.

(c) BUY AMERICA REPORTING.—Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under a provision referenced in subsection (a)(1) during the preceding calendar year;

(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

(3) provides an employment impact analysis of the cumulative effect on manufacturing employment in the United States of all waivers for highway, public transportation, or railroad projects from a Buy America requirement issued by the Secretary during the preceding calendar year.

(d) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(e) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of this Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subsection (a)(1) to determine whether continuing such waiver is necessary.

SA 1648. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

SEC. _____. CONSTRUCTION CAREERS DEMONSTRATION PROJECT.

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

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the construction careers demonstration project established under subsection (b)(1).

(2) ELIGIBLE PROJECT.—The term ''eligible project'' means any of the projects described in and identified by the Secretary under subsection (c)(1), and for which terms and conditions are set forth under subsection (c)(2), that—

(A) is requested for inclusion in the demonstration project by the State or local recipient of Department assistance through written communication to the Secretary;

(B) is estimated to have a total cost (including all sources of funding) of more than $25,000,000; and

(C) would be constructed in a labor market area (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) for which a project-wide proportion of 15 percent of work hours to be performed by targeted workers is practical and attainable.

(3) QUALIFIED PREAPPRENTICESHIP PROGRAM.—The term ''qualified preapprenticeship program'' means a preapprenticeship training program that the Secretary of Labor, after consultation with stakeholders, determines—

(A) has demonstrated an ability to recruit, train, and prepare for admission to registered apprenticeship programs individuals who are targeted workers;

(B) has a written arrangement with at least 1 registered apprenticeship program to assist in recruitment and preparation of workers for application to that apprenticeship program; and

(C) uses a training curriculum that does not include on-the-job training.

(4) REGISTERED APPRENTICESHIP PROGRAM.—

(A) IN GENERAL.—The term ''registered apprenticeship program'' means an apprenticeship program registered with the Office of Apprenticeship of the Department of Labor, or with a State apprenticeship agency recognized by that Office of Apprenticeship, for purposes of regulation of apprenticeship programs pursuant to Federal law (including regulations).

(B) EXCLUSIONS.—The term ''registered apprenticeship program'' does not include any program that maintains provisional registration status.

(5) TARGETED WORKER.—The term ''targeted worker'' means an individual who—

(A) resides in the same labor market area (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) in which a project is to be carried out;

(B)(i)(I) is a member of a targeted group within the meaning of section 51 of the Internal Revenue Code of 1986; or

(II) resides in a census tract in which not less than 20 percent of the households have incomes below the Federal poverty guidelines; and

(ii) is a member of a family with a total family income that, during the 2-year period prior to employment on the project, did not exceed 200 percent of the Federal poverty guidelines (exclusive of unemployment compensation, child support payments, payments described in section 101(25)(A) of the Workforce Investment Act (29 U.S.C. 2801(25)(A)), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)); or

(C) is a displaced homemaker (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).

(6) WORKFORCE ENTITY.—The term ''workforce entity'' means—

(A) a qualified preapprenticeship program;

(B) a workforce investment board established pursuant to section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821); and

(C) a community-based organization with a track record of working with targeted workers.

(b) ESTABLISHMENT AND AUTHORITY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Labor, shall, by regulation and through the use of guidance, establish a construction careers demonstration project in accordance with this section.

(2) PURPOSE.—The purposes of the demonstration project shall be—

(A) to promote middle class careers and quality employment practices in the construction sector among targeted workers; and

(B) to advance efficiency and performance on eligible projects.

(c) ROLE OF SECRETARY.—To achieve the purposes described in subsection (b)(2), the Secretary shall—

(1) consult with State and local funding recipients to identify up to 20 projects per year that are directly funded or assisted, in whole or in part, by or through—

(A) the Federal Highway Administration;

(B) the Federal Transit Administration; and

(C) any other agency within the Department of Transportation;

(2) establish such terms and conditions for eligible projects as the Secretary, in consultation with the Secretary of Labor, determines are necessary to achieve those purposes and meet the requirements set forth in this section;

(3) for each included eligible project, in consultation with the Secretary of Labor and the State or local funding recipient, evaluate local labor market conditions and specify a proportion of overall construction work hours to be performed by targeted workers, and include such specification in the terms and conditions applicable to that project;

(4) require contractors performing construction services on included eligible projects to comply with the terms and conditions of the Secretary, and the requirements of this section, as conditions on the receipt by the project of Federal funding or assistance; and

(5)(A) not later than 3 years after the date on which the first eligible project under the demonstration project is identified under this subsection, evaluate the demonstration project in light of the purposes of this section; and

(B) if the Secretary determines that the demonstration project has advanced the goals set forth in this section, identify such additional eligible projects as the Secretary determines are appropriate for inclusion in the demonstration project.

(d) GAO REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committees on Transportation and Infrastructure and Education and the Workforce of the House of Representatives and the Committees on Banking, Health, Education, Labor and Pensions, Environment and Public Works, and Commerce, Science, and Transportation of the Senate, a report that describes the results of the demonstration project, including outcomes relating to training and employment placement, and any appropriate recommendations.

(e) CONSTRUCTION CAREERS PATHWAYS.—Each contractor and subcontractor that seeks to provide construction services on eligible projects shall submit adequate assurances with a bid or proposal that, for each craft or trade classification of worker that the contractor or subcontractor intends to employ to perform work on the eligible project, the contractor or subcontractor participates in a registered apprenticeship program.

(f) PREAPPRENTICESHIP TRAINING.—In order to advance the purposes of this section, on each eligible project included in the demonstration project, up to 1 percent of total project funds shall be used to support—

(1) training through qualified preapprenticeship programs to targeted workers interested in enrolling in registered apprenticeship programs; and

(2) community-based organizations in recruiting targeted workers to participate in registered apprenticeship programs or preapprenticeship training programs.

(g) ENGAGEMENT OF QUALIFIED PREAPPRENTICESHIP PROGRAMS.—In order to advance the purposes of this section, the recipient of Federal funding or assistance, or other public entity awarding contracts for construction of the eligible project shall—

(1) on each eligible project included in the demonstration project, engage local workforce entities to assist contractors in satisfying the targeted hiring requirements of the eligible project by—

(A) identifying and training targeted workers who are not currently enrolled in registered apprenticeship programs; and

(B) developing relationships with local registered apprenticeship programs; and

(2) before commencement of construction on the eligible project, convene contractors, workforce entities, and registered apprenticeship programs to facilitate programmatic relationships.

(h) SMALL- AND DISADVANTAGED-BUSINESS REQUIREMENTS.—Terms and conditions applicable to eligible projects shall require recipients and contractors to comply with all applicable federally mandated small- and disadvantaged-business requirements for contracting, subcontracting, and procurement.

(i) LIMITATION.—This section shall not apply to any project funded under this Act in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the United States Virgin Islands, unless participation is requested by the Governor of the territory by not later than the date that is 1 year after the effective date of the regulations promulgated under subsection (j).

(j) REGULATIONS.—The Secretary, in consultation with the Secretary of Labor, shall promulgate such regulations as are necessary to carry out this section.

SA 1649. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 414 of title 23, United States Code, as added by section 31112, add at the end the following:

''(f) WITHHOLDING.—

''(1) THIRD FISCAL YEAR.—The Secretary shall withhold 3 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of the third fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.

''(2) FOURTH FISCAL YEAR.—The Secretary shall withhold 5 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of the fourth fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.''.

''(3) FIFTH FISCAL YEAR.—The Secretary shall withhold 10 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of the fifth fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.

''(4) RELEASE OF FUNDS.—The Secretary shall release any amounts withheld from a State under this subsection as soon as feasible once the State demonstrates, in a manner prescribed by the Secretary, that the State—

''(A) has enacted a graduated driver licensing law that complies with the requirements under this section; and

''(B) is enforcing the State law described in subparagraph (A).

''(5) RETURN OF FUNDS.—If a State fails to demonstrate its compliance with paragraph (4) by the first day of the fiscal year that is 3 years after the date on which amounts were withheld under this subsection, such amounts shall be—

''(A) forfeited by the State; and

''(B) deposited by the Secretary into the general fund of the Treasury.''.

SA 1650. Mrs. GILLIBRAND (for herself and Mr. SANDERS) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, between the matter following line 12 and line 13, insert the following:

SEC. _____. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Section 1303 of the SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1207) is amended—

(1) in subsection (a), by striking ''motor vehicles'' and inserting ''motor vehicles and freight and passenger rail'';

(2) in subsection (b), in paragraphs (1), (3), (4), and (5), by inserting '', rail,'' after ''motor vehicle'' each place it appears;

(3) in subsection (d), in the matter preceding paragraph (1), by inserting '', rail,'' after ''motor vehicle''; and

(4) in subsection (g)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following:

''(5) RAIL.—The term 'rail' means railroad (as defined in section 10102 of title 49, United States Code).''.

(b) CONFORMING AMENDMENT.—Section 133(c) of title 23, United States Code, as amended by section 1108, is further amended by striking paragraph (16) and inserting the following:

''(16) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1207) (including freight and passenger railroads as defined in section 10102 of title 49).''.

SA 1651. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 20 and all that follows through page 284, line 11, and insert the following:

''(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, travel and tourism, productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, facilitate travel and tourism, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;''.

On page 317, line 22, strike ''and''.

On page 318, line 2, strike the period and insert ''; and''.

On page 318, between lines 2 and 3, insert the following:

''(C) to the maximum extent practicable, provide for consultation with State tourism offices and local and regional domestic marketing organizations.''.

On page 323, line 18, insert ''facilitate travel and tourism,'' after ''life,''.

SA 1652. Mr. HARKIN (for himself, Mr. MORAN, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 299, line 5, strike ''$1,874,763,500'' and insert ''$1,574,763,500''.

In division D, on page 303, strike line 22 and all that follows through ''area.'' on page 306, line 12.

In division D, on page 306, strike lines 21 and 22 and insert the following:

5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, 5337(c), and 5340,

In division D, on page 307, line 10, strike ''$4,756,161,500'' and insert ''$5,039,661,500''.

In division D, on page 308, line 1, strike ''$591,190,000'' and insert ''$720,190,000''.

In division D, on page 309, line 6, strike ''$1,987,263,500'' and insert ''$1,574,763,500''.

In division D, on page 309, line 8, strike ''subsections (c) and (e) of section 5337'' and insert ''section 5337(c)''.

In division D, on page 309, line 20, strike ''$1,955,000,000'' and insert ''$1,655,000,000''.

In division D, on page 310, between lines 4 and 5 insert the following:

''(f) FORMULA GRANTS.—

''(1) URBANIZED AREA FORMULA GRANTS.—There are authorized to be appropriated to carry out section 5307 $203,500,000 for each of fiscal years 2012 and 2013, which shall be allocated in accordance with section 5336.

''(2) FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.—There are authorized to be appropriated to carry out section 5311 $96,500,000 for each of fiscal years 2012 and 2013, which shall be apportioned in accordance with section 5311(c).

SA 1653. Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

SEC. ___. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.

(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to drug testing established under chapter 313 of title 49, United States Code.

(3) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(4) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(5) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) STATE REQUIREMENTS.—

(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term ''covered farm vehicle'' means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term ''covered farm vehicle'' includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement;

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

SA 1654. Mr. BOOZMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE _____—PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2012

SEC. __01. SHORT TITLE.

This title may be cited as the ''Private Property Rights Protection Act of 2012''.

SEC. __02. PROHIBITION ON EMINENT DOMAIN ABUSE BY STATES.

(a) IN GENERAL.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property to be used for economic development or over property that is used for economic development within 7 years after that exercise, if that State or political subdivision receives Federal economic development funds during any fiscal year in which the property is so used or intended to be used.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) OPPORTUNITY TO CURE VIOLATION.—A State or political subdivision shall not be ineligible for any Federal economic development funds under subsection (b) if such State or political subdivision returns all real property the taking of which was found by a court of competent jurisdiction to have constituted a violation of subsection (a) and replaces any other property destroyed and repairs any other property damaged as a result of such violation. In addition, the State must pay applicable penalties and interest to reattain eligibility.

SEC. __03. PROHIBITION ON EMINENT DOMAIN ABUSE BY THE FEDERAL GOVERNMENT.

The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain to be used for economic development.

SEC. __04. PRIVATE RIGHT OF ACTION.

(a) CAUSE OF ACTION.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, may bring an action to enforce any provision of this title in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. Any such property owner or tenant may also seek an appropriate relief through a preliminary injunction or a temporary restraining order.

(b) LIMITATION ON BRINGING ACTION.—An action brought by a property owner or tenant under this title may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of such property owner or tenant, but shall not be brought later than seven years following the conclusion of any such proceedings.

(c) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this title, the court shall allow a prevailing plaintiff a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

SEC. __05. REPORTING OF VIOLATIONS TO ATTORNEY GENERAL.

(a) SUBMISSION OF REPORT TO ATTORNEY GENERAL.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, may report a violation by the Federal Government, any authority of the Federal Government, State, or political subdivision of a State to the Attorney General.

(b) INVESTIGATION BY ATTORNEY GENERAL.—Upon receiving a report of an alleged violation, the Attorney General shall conduct an investigation to determine whether a violation exists.

(c) NOTIFICATION OF VIOLATION.—If the Attorney General concludes that a violation does exist, then the Attorney General shall notify the Federal Government, authority of the Federal Government, State, or political subdivision of a State that the Attorney General has determined that it is in violation of this title. The notification shall further provide that the Federal Government, State, or political subdivision of a State has 90 days from the date of the notification to demonstrate to the Attorney General either that (1) it is not in violation of this title or (2) that it has cured its violation by returning all real property the taking of which the Attorney General finds to have constituted a violation of this title and replacing any other property destroyed and repairing any other property damaged as a result of such violation.

(d) ATTORNEY GENERAL'S BRINGING OF ACTION TO ENFORCE ACT.—If, at the end of the 90-day period described in subsection (c), the Attorney General determines that the Federal Government, authority of the Federal Government, State, or political subdivision of a State is still violating this title or has not cured its violation as described in subsection (c), then the Attorney General will bring an action to enforce this title unless the property owner or tenant who reported the violation has already brought an action to enforce this title. In such a case, the Attorney General shall intervene if it determines that intervention is necessary in order to enforce this title. The Attorney General may file its lawsuit to enforce this title in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. The Attorney General may seek any appropriate relief through a preliminary injunction or a temporary restraining order.

(e) LIMITATION ON BRINGING ACTION.—An action brought by the Attorney General under this title may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of an owner or tenant who reports a violation of this title to the Attorney General, but shall not be brought later than seven years following the conclusion of any such proceedings.

(f) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this title brought by the Attorney General, the court shall, if the Attorney General is a prevailing plaintiff, award the Attorney General a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

SEC. __06. NOTIFICATION BY ATTORNEY GENERAL.

(a) NOTIFICATION TO STATES AND POLITICAL SUBDIVISIONS.—

(1) Not later than 30 days after the enactment of this title, the Attorney General

shall provide to the chief executive officer of each State the text of this title and a description of the rights of property owners and tenants under this title.

(2) Not later than 120 days after the enactment of this title, the Attorney General shall compile a list of the Federal laws under which Federal economic development funds are distributed. The Attorney General shall compile annual revisions of such list as necessary. Such list and any successive revisions of such list shall be communicated by the Attorney General to the chief executive officer of each State and also made available on the Internet website maintained by the United States Department of Justice for use by the public and by the authorities in each State and political subdivisions of each State empowered to take private property and convert it to public use subject to just compensation for the taking.

(b) NOTIFICATION TO PROPERTY OWNERS AND TENANTS.—Not later than 30 days after the enactment of this title, the Attorney General shall publish in the Federal Register and make available on the Internet website maintained by the United States Department of Justice a notice containing the text of this title and a description of the rights of property owners and tenants under this title.

SEC. __07. REPORTS.

(a) BY ATTORNEY GENERAL.—Not later than 1 year after the date of enactment of this title, and every subsequent year thereafter, the Attorney General shall transmit a report identifying States or political subdivisions that have used eminent domain in violation of this title to the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives and to the Chairman and Ranking Member of the Committee on the Judiciary of the Senate. The report shall—

(1) identify all private rights of action brought as a result of a State's or political subdivision's violation of this title;

(2) identify all violations reported by property owners and tenants under section 5(c) of this title;

(3) identify the percentage of minority residents compared to the surrounding nonminority residents and the median incomes of those impacted by a violation of this title;

(4) identify all lawsuits brought by the Attorney General under section 5(d) of this title;

(5) identify all States or political subdivisions that have lost Federal economic development funds as a result of a violation of this title, as well as describe the type and amount of Federal economic development funds lost in each State or political subdivision and the Agency that is responsible for withholding such funds; and

(6) discuss all instances in which a State or political subdivision has cured a violation as described in section 2(c) of this title.

(b) DUTY OF STATES.—Each State and local authority that is subject to a private right of action under this title shall have the duty to report to the Attorney General such information with respect to such State and local authorities as the Attorney General needs to make the report required under subsection (a).

SEC. __08. SENSE OF CONGRESS REGARDING RURAL AMERICA.

(a) FINDINGS.—The Congress finds the following:

(1) The founders realized the fundamental importance of property rights when they codified the Takings Clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken ''for public use, without just compensation''.

(2) Rural lands are unique in that they are not traditionally considered high tax revenue-generating properties for State and local governments. In addition, farmland and forest land owners need to have long-term certainty regarding their property rights in order to make the investment decisions to commit land to these uses.

(3) Ownership rights in rural land are fundamental building blocks for our Nation's agriculture industry, which continues to be one of the most important economic sectors of our economy.

(4) In the wake of the Supreme Court's decision in Kelo v. City of New London, abuse of eminent domain is a threat to the property rights of all private property owners, including rural land owners.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the use of eminent domain for the purpose of economic development is a threat to agricultural and other property in rural America and that the Congress should protect the property rights of Americans, including those who reside in rural areas. Property rights are central to liberty in this country and to our economy. The use of eminent domain to take farmland and other rural property for economic development threatens liberty, rural economies, and the economy of the United States. The taking of farmland and rural property will have a direct impact on existing irrigation and reclamation projects. Furthermore, the use of eminent domain to take rural private property for private commercial uses will force increasing numbers of activities from private property onto this Nation's public lands, including its National forests, National parks and wildlife refuges. This increase can overburden the infrastructure of these lands, reducing the enjoyment of such lands for all citizens. Americans should not have to fear the government's taking their homes, farms, or businesses to give to other persons. Governments should not abuse the power of eminent domain to force rural property owners from their land in order to develop rural land into industrial and commercial property. Congress has a duty to protect the property rights of rural Americans in the face of eminent domain abuse.

SEC. __09. DEFINITIONS.

In this title the following definitions apply:

(1) ECONOMIC DEVELOPMENT.—

(A) IN GENERAL.—The term ''economic development'' means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health, except that such term shall not include—

(i) conveying private property—

(I) to public ownership, such as for a road, hospital, airport, or military base;

(II) to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility;

(III) for use as a road or other right of way or means, open to the public for transportation, whether free or by toll; and

(IV) for use as an aqueduct, flood control facility, pipeline, or similar use;

(ii) removing blighted property;

(iii) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(iv) acquiring abandoned property;

(v) clearing defective chains of title;

(vi) taking private property for use by a public utility, including a utility providing electric, natural gas, telecommunications, water and wastewater services, either directly to the public or indirectly through provision of such services at the wholesale level for resale to the public; and

(vii) redeveloping of a brownfield site as defined in the Small Business Liability Relief and Brownfields Revitalization Act (42 U.S.C. 9601(39)).

(B) BLIGHTED PROPERTY.—In subparagraph (A)(ii), the term ''blighted property'' means a structure—

(i) that was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations that—

(I) affect the safety of the occupants or the public; and

(II) involve one or more of the following:

(aa) a roof and roof framing element;

(bb) support walls, beams, and headers;

(cc) foundation, footings, and subgrade conditions;

(dd) light and ventilation;

(ee) fire protection, including egress;

(ff) internal utilities, including electricity, gas, and water;

(gg) flooring and flooring elements; or

(hh) walls, insulation, and exterior envelope;

(ii) in which the cited housing, maintenance, or building code violations have not been remedied within a reasonable time after 2 notices to cure the noncompliance; and

(iii) that the satisfaction of those enforceable, cited and uncured housing, maintenance, and building code violations cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, for property taxes payable in the year in which the condemnation is commenced.

(C) ABANDONED PROPERTY.—In subparagraph (A)(iv), the term ''abandoned property'' means property that—

(i) has been substantially unoccupied or unused for any commercial or residential purpose for at least 1 year by a person with a legal or equitable right to occupy the property;

(ii) has not been maintained; and

(iii) for which property taxes have not been paid for at least 2 years.

(2) FEDERAL ECONOMIC DEVELOPMENT FUNDS.—The term ''Federal economic development funds'' means any Federal funds distributed to or through States or political subdivisions of States under Federal laws designed to improve or increase the size of the economies of States or political subdivisions of States.

(3) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

SEC. __10. SEVERABILITY AND EFFECTIVE DATE.

(a) SEVERABILITY.—The provisions of this title are severable. If any provision of this title, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of this title not so adjudicated.

(b) EFFECTIVE DATE.—This title shall take effect upon the first day of the first fiscal year that begins after the date of the enactment of this title, but shall not apply to any project for which condemnation proceedings have been initiated prior to the date of enactment.

SEC. __11. SENSE OF CONGRESS.

It is the policy of the United States to encourage, support, and promote the private ownership of property and to ensure that the constitutional and other legal rights of private property owners are protected by the Federal Government.

SEC. __12. BROAD CONSTRUCTION.

This title shall be construed in favor of a broad protection of private property rights, to the maximum extent permitted by the terms of this title and the Constitution.

SEC. __13. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title may be construed to supersede, limit, or otherwise affect any provision of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. __14. RELIGIOUS AND NONPROFIT ORGANIZATIONS.

(a) PROHIBITION ON STATES.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) PROHIBITION ON FEDERAL GOVERNMENT.—The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto.

SEC. __15. REPORT BY FEDERAL AGENCIES ON REGULATIONS AND PROCEDURES RELATING TO EMINENT DOMAIN.

Not later than 180 days after the date of the enactment of this title, the head of each Executive department and agency shall review all rules, regulations, and procedures and report to the Attorney General on the activities of that department or agency to bring its rules, regulations and procedures into compliance with this title.

SEC. __16. SENSE OF CONGRESS.

It is the sense of Congress that any and all precautions shall be taken by the government to avoid the unfair or unreasonable taking of property away from survivors of Hurricane Katrina who own, were bequeathed, or assigned such property, for economic development purposes or for the private use of others.

SEC. __17. DISPROPORTIONATE IMPACT ON MINORITIES.

If the court determines that a violation of this title has occurred, and that the violation has a disproportionately high impact on the poor or minorities, the Attorney General shall use reasonable efforts to locate and inform former owners and tenants of the violation and any remedies they may have.

SA 1655. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, insert the following:

SEC. 15___. ELECTION TO RECEIVE STATE CONTRIBUTION TO HIGHWAY TRUST FUND IN LIEU OF PARTICIPATING IN FEDERAL-AID HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

"SEC. 168. DIRECT FEDERAL-AID HIGHWAY PROGRAM.

''(a) PROGRAM.—

''(1) IN GENERAL.—Beginning with the first fiscal year after the date of enactment of this section, the Secretary shall carry out a direct Federal-aid highway program in accordance with this section under which the Governor or chief executive officer of a State may elect, not less than 90 days before the beginning of each fiscal year—

''(A) to have the State waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election applies; and

''(B) to receive instead the amount determined under subsection (d) for that fiscal year.

''(2) FORM AND NATURE OF ELECTION.—An election for a fiscal year under this subsection shall be made in such form and manner as the Secretary may require and shall be irrevocable for the fiscal year.

''(b) STATE RESPONSIBILITY.—

''(1) IN GENERAL.—The Secretary shall accept an election under subsection (a) if the Secretary determines that the State making the election—

''(A) has an Interstate maintenance program and agrees to maintain the portions of the Interstate System in the State in accordance with that program;

''(B) submits to the Secretary a plan describing—

''(i) the purposes, projects, and uses to which amounts received under the program will be put; and

''(ii) which programmatic requirements of this title the State elects to continue;

''(C) agrees to obligate or expend amounts received under the program exclusively for projects that would be eligible for funding under section 133(b) if the State were not participating in the program; and

''(D) agrees to report annually to the Secretary on the use of amounts received under the program and to make the report available to the public in an easily accessible format.

''(2) SAFETY REQUIREMENTS.—The Secretary may determine that requirements important for transportation safety continue to apply to a State that makes an election under subsection (a).

''(3) SURFACE TRANSPORTATION PROGRAM.—A State that makes an election under subsection (a) shall continue to suballocate funds to urbanized areas and other areas using the formulas and rules under section 133(d)(3).

''(4) NO LIMITATION ON USE OF FUNDS.—Except as provided in paragraphs (1), (2), and (3), the expenditure or obligation of funds received by the State under the program is not subject to regulation under this title or title 49.

''(c) EFFECT ON PRE-EXISTING OBLIGATIONS.—The making of an election under subsection (a) shall not affect any obligation, responsibility, or commitment of the State under this title for any fiscal year with respect to—

''(1) a project or program funded under this title (other than under this section); or

''(2) any project or program funded under this title for any fiscal year for which an election under subsection (a) is not in effect.

''(d) TRANSFERS.—

''(1) IN GENERAL.—The amount to be transferred to a State under the program for a fiscal year shall be the portion of the tax revenue appropriated to the Highway Trust Fund, other than for the Mass Transit Account, for a fiscal year for which an election is in effect under subsection (a) that is attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Secretary to fund contract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

''(2) GENERAL FUND AMOUNTS.—For purposes of paragraph (1), any amounts deposited in or credited to the Highway Trust Fund from the general fund of the Treasury shall be treated as if the amounts were amounts received as tax revenue and appropriated to the Fund.

''(3) TRANSFERS.—

''(A) IN GENERAL.—Transfers under the program shall be made—

''(i) at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

''(ii) on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury.

''(B) ADJUSTMENTS.—Subject to subparagraph (C), proper adjustments shall be made in amounts subsequently transferred under this paragraph to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

''(C) LIMITATION.—With respect to an adjustment under subparagraph (B) to any transfer—

''(i) the adjustment may not exceed 5 percent of the transferred amount to which the adjustment relates; and

''(ii) if the adjustment required exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under that subparagraph.

''(e) APPLICATION WITH OTHER AUTHORITY.—The Secretary shall rescind or cancel any contract authority under this chapter (and any obligation limitation) for a State for a fiscal year for which an election by that State is in effect under subsection (a).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1115(b)), is amended by adding at the end the following:

''Sec. 168. Direct Federal-aid highway program.''.

SA 1656. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, insert the following:

SEC. 1521. ELIMINATION OF FEDERAL MANDATES FOR TRAFFIC SIGN RETROREFLECTIVITY.

(a) FINDING.—Congress finds that it is the responsibility of State and local governments to determine whether traffic signs of the State and local governments provide necessary levels of retroreflectivity.

(b) PROHIBITION ON STANDARD.—The Secretary of Transportation (referred to in this section as the ''Secretary'') shall not promulgate, implement, or enforce a minimum retroreflectivity level standard for a traffic control device that is applicable to a State or local government.

(c) MODIFICATION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS.—The Secretary shall modify the

Manual on Uniform Traffic Control Devices for Streets and Highways, 2009 Edition (incorporated by reference in part 655 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act)), to eliminate—

(1) the minimum retroreflectivity level standards for traffic control devices contained in section 2A.08 of the Manual; and

(2) the schedule for the implementation of the standards contained in table I–2 of the Manual.

(d) REPEAL.—Section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102–388; 106 Stat. 1564) is amended by striking ''to include—'' and all that follows through ''(b) a standard'' and inserting ''to include a standard''.

SA 1657. Ms. CANTWELL (for herself and Mr. LUGAR) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. OPEN FUELS STANDARD.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''§ 32920. Open fuels standard

''(a) DEFINITIONS.—In this section:

''(1) ADVANCED ALTERNATIVE FUEL BLEND.—The term 'advanced alternative fuel blend' means—

''(A) a mixture containing—

''(i) at least 85 percent denatured ethanol, by volume, or a lower percentage prescribed by the Secretary pursuant to section 32901(b); and

''(ii) gasoline or drop-in fuel;

''(B) a mixture containing—

''(i) at least 70 percent methanol, by volume; and

''(ii) gasoline or drop-in fuel; and

''(C) any other mixture of alcohols or liquid fuels certified by the Secretary pursuant to subsection (b)(2).

''(2) ANNUAL COVERED INVENTORY.—The term 'annual covered inventory' means the number of automobiles (as defined in section 32901(a)(3)) that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States, for sale in the United States.

''(3) FUEL CHOICE-ENABLING VEHICLE.—The term 'fuel choice-enabling vehicle' means a automobile warranted by its manufacturer—

''(A)(i) absent certification authorizing the use of an advanced alternative fuel blend under subsection (b)(2), to operate on a mixture containing—

''(I) at least 85 percent denatured ethanol, by volume, or a lower percentage prescribed by the Secretary pursuant to section 32901(b); and

''(II) gasoline or drop-in fuel; and

''(ii) after certification under subsection (b)(2), to operate on an advanced alternative fuel blend; or

''(B) to operate on—

''(i) natural gas;

''(ii) hydrogen;

''(iii) electricity;

''(iv) a hybrid electric engine;

''(v) a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 5 percent biodiesel; or

''(vi) any other fuel or means of powering covered automobiles prescribed by the Secretary, by regulation, that contains not more than 10 percent petroleum, by volume.

''(b) OPEN FUELS STANDARD.—

''(1) IN GENERAL.—Each automobile manufacturer's annual covered inventory shall be comprised of—

''(A) not less than 50 percent fuel choice-enabling vehicles in model years 2015, 2016, and 2017; and

''(B) not less than 80 percent fuel choice-enabling vehicles in model year 2018 and each subsequent model year.

''(2) CERTIFICATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall certify—

''(A) the use of advanced alternative fuel blends in fuel choice-enabling vehicles unless the Secretary determines that such certification—

''(i) is not technologically feasible;

''(ii) would result in burdensome consumer costs;

''(iii) negatively impacts automobile safety;

''(iv) negatively impacts air quality;

''(v) would not increase the use of domestic feedstock sources; or

''(vi) is unlikely to enable reductions in foreign oil imports;

''(B) the type and blend of advanced alternative fuel blend that can be utilized by specific automobiles in use on such date of enactment; and

''(C) the type and blend of advanced alternative fuel blend that can be utilized by new and existing components of the Nation's transportation fueling infrastructure for fuel choice-enabled vehicles.

''(3) SMALL MANUFACTURER EXEMPTION.—At the request of a manufacturer, the Secretary of Transportation shall exempt the manufacturer from the requirement described in paragraph (1) if the manufacturer's annual covered inventory is fewer than 10,000.

''(4) CREDIT TRADING AMONG MANUFACTURERS.—

''(A) IN GENERAL.—The Secretary may establish, by regulation, an open fuels standard credit trading program to allow manufacturers whose annual covered inventory exceeds the requirement described in paragraph (1) to earn credits, which may be sold to manufacturers that are unable to achieve such requirement.

''(B) DUAL FUEL CREDIT.—Beginning in model year 2018, any automobile used to qualify for the open fuels standard under this subsection cannot be used to receive the dual fuel credit under section 32903.

''(c) FUEL CHOICE COMPARISON TOOL.—The Secretary of Transportation, in consultation with the Secretary of Energy, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Federal Trade Commission, shall—

''(1) develop a model label for pumps in the United States dispensing advanced alternative fuels to consumers that—

''(A) identifies a single, readily comprehensible metric that allows consumers to evaluate the relative value, energy density, and expected automobile performance of any particular advanced alternative fuel blend; and

''(B) includes appropriate warnings against the use of such fuels in unwarranted engines, including nonautomobile engines; and

''(2) make the label described in paragraph (1) available for voluntary reproduction and adoption.

''(d) STUDY OF FUEL DISPENSING INFRASTRUCTURE FOR ADVANCED ALTERNATIVE FUEL BLENDS.—Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that evaluates the need for standardized fueling equipment that facilitates the dispensing of advanced alternative fuel blends to fuel choice-enabling vehicles and prevents such fuel blends from being dispensed to incompatible automobiles.''.

(b) CLERICAL AMENDMENT.—The table of section for chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''32920. Open fuels standard.''.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendment made by subsection (a).

SA 1658. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. CONSOLIDATION OF GRANTS.

(a) DEFINITIONS.—In this section, the term ''recipient'' means—

(1) a State, local, or tribal government, including—

(A) a territory of the United States;

(B) a transit agency;

(C) a port authority;

(D) a metropolitan planning organization; or

(E) any other political subdivision of a State or local government;

(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

(3) a public-private partnership, if both parties are engaged in building the project.

(b) CONSOLIDATION.—

(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Secretary designate 1 modal administration in the Department to be the lead agency for the overall project.

(2) REVIEW.—

(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead Federal agency and point of contact for the Department.

(B) NOTIFICATION.—

(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) DUTIES.—

(1) IN GENERAL.—A modal administration designated as a lead agency under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) during the first 30 days of carrying out the multimodal project, if applicable, identify overlapping or duplicative regulatory requirements and propose a single, streamlined approach to meeting the regulatory requirements.

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall transfer all amounts that have been competitively awarded for the multimodal project to the modal administration designated as the project lead.

(B) OPTION.—

(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

(d) COOPERATION.—

(1) IN GENERAL.—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner.

SA 1659. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(k) REPORTS.—

(1) SECRETARY.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the project, based on the criteria described in subsection (e).

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (e) that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

(2) COMPTROLLER GENERAL.—

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

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on the criteria described in subsection (e).

(3) INSPECTOR GENERAL.—

(A) ASSESSMENT.—The Inspector General of the Department shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the initial results of the assessment conducted under subparagraph (A).

(C) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department with respect to the assessment conducted under subparagraph (A).

SA 1660. Ms. COLLINS (for herself, Mr. ALEXANDER, Mr. TOOMEY, Mr. PRYOR, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division A, add the following:

Subtitle F—EPA Regulatory Relief

SEC. 15031. SHORT TITLE.

This subtitle may be cited as the ''EPA Regulatory Relief Act of 2011''.

SEC. 15032. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this subtitle referred to as the ''Administrator'') shall—

(1) propose regulations for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units, subject to any of the rules specified in subsection (b)—

(A) establishing maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ''Resource Conservation and Recovery Act'') for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act.

(b) STAY OF EARLIER RULESOR ON SUCH.—The following rules are of no force or effect, shall be treated as though such rules had never taken effect, and shall be replaced as described in subsection (a):

(1) ''National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters'', published at 76 Fed. Reg. 15608 (March 21, 2011).

(2) ''National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers'', published at 76 Fed. Reg. 15554 (March 21, 2011).

(3) ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'', published at 76 Fed. Reg. 15704 (March 21, 2011).

(4) ''Identification of Non-Hazardous Secondary Materials That are Solid Waste'', published at 76 Fed. Reg. 15456 (March 21, 2011).

(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—With respect to any standard required by subsection (a) to be promulgated in regulations under section 112 of the Clean Air Act (42 U.S.C. 7412), the provisions of subsections (g)(2) and (j) of such section 112 shall not apply prior to the effective date of the standard specified in such regulations.

SEC. 15033. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section 15032, the Administrator—

(1) shall establish a date for compliance with standards and requirements under such regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for such compliance, shall take into consideration—

(A) the costs of achieving emissions reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time needed to—

(i) obtain necessary permit approvals; and

(ii) procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 15032(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of such Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid waste incineration unit under section 129(g)(2) of such Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to restrict or otherwise affect the provisions of paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. 15034. ENERGY RECOVERY AND CONSERVATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the ''Resource Conservation and Recovery Act of 1976''), in promulgating regulations under section 15032(a) that address the subject matter of the regulations described in paragraphs (3) and (4) of section 15032(b), the Administrator shall—

(1) adopt the definitions of the terms ''commercial and industrial solid waste incineration unit'', ''commercial and industrial waste'', and ''contained gaseous material'' contained in the regulation entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material as not to be solid waste for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) if—

(A) the material—

(i) does not meet the definition of commercial and industrial waste; and

(ii) is on the list published by the Administrator under subsection (b); or

(B) in the case of the material that is a gas, the material does not meet the definition of contained gaseous material.

(b) LIST OF NONHAZARDOUS SECONDARY MATERIALS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall publish a list of nonhazardous secondary materials that are not solid waste when combusted in units designed for energy recovery, including—

(A) without limitation, all forms of biomass, including—

(i) agricultural and forest-derived biomass;

(ii) biomass crops, vines, and orchard trees;

(iii) bagasse and other crop and tree residues, including—

(I) hulls and seeds;

(II) spent grains;

(III) byproducts of cotton;

(IV) corn and peanut production;

(V) rice milling and grain elevator operations;

(VI) cellulosic biofuels; and

(VII) byproducts of ethanol natural fermentation processes;

(iv) hogged fuel, including wood pallets, sawdust, and wood pellets;

(v) wood debris from forests and urban areas;

(vi) resinated wood and other resinated biomass-derived residuals, including trim, sanderdust, offcuts, and woodworking residuals;

(vii) creosote-treated, borate-treated, sapstained, and other treated wood;

(viii) residuals from wastewater treatment by the manufacturing industry, including process wastewater with significant British thermal unit (''Btu'') value;

(ix) paper and paper or cardboard recycling residuals, including paper-derived fuel cubes, paper fines, and paper and cardboard rejects;

(x) turpentine, turpentine derivatives, pine tar, rectified methanol, glycerine, lumber kiln condensates, and wood char;

(xi) tall oil and related soaps;

(xii) biogases or bioliquids generated from biomass materials, wastewater operations, or landfill operations;

(xiii) processed biomass derived from construction and demolition debris for the purpose of fuel production; and

(xiv) animal manure and bedding material;

(B) solid and emulsified paraffin;

(C) petroleum and chemical reaction and distillation byproducts and residues, alcohol, ink, and nonhalogenated solvents;

(D) tire-derived fuel, including factory scrap tire and related material;

(E) foundry sand processed in thermal reclamation units;

(F) coal refuse and coal combustion residuals;

(G) shredded cloth and carpet scrap;

(H) latex paint water, organic printing dyes and inks, recovered paint solids, and nonmetallic paint sludges;

(I) nonchlorinated plastics;

(J) all used oil that qualifies as recycled oil under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903);

(K) process densified fuels that contain any of the materials described in this paragraph; and

(L) any other specific or general categories of material that the Administrator determines the combustion of which is for use as a fuel pursuant to paragraph (2).

(2) ADDITIONS TO THE LIST.—

(A) IN GENERAL.—To provide greater regulatory certainty, the Administrator may, after public notice and opportunity to comment, add nonhazardous secondary materials to the list published under paragraph (1)—

(i) as the Administrator determines necessary; or

(ii) based on a petition submitted by any person.

(B) RESPONSE.—Not later than 120 days after receiving any petition under subparagraph (A)(ii), the Administrator shall respond to the petition.

(C) REQUIREMENTS.—In making a determination under this paragraph, the Administrator may decline to add a material to the list under paragraph (1) if the Administrator determines that regulation under section 112 of the Clean Air Act (42 U.S.C. 7412) would not reasonably protect public health with an ample margin of safety.

SEC. 15035. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section 15032(a), the Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section 15032(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).

SA 1661. Ms. KLOBUCHAR (for herself, Mr. BURR, Mrs. SHAHEEN, and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, between lines 17 and 18, insert the following:

(5) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $85,000,000 for each of fiscal years 2012 and 2013.

On page 51, strike line 16 and insert the following:

''(g) RECREATIONAL TRAILS PROGRAM.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of section 206(c).

''(2) ADMINISTRATIVE COSTS.—

''(A) IN GENERAL.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for the program $840,000 for each fiscal year.

''(B) CONTRACTS.—The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform functions described in subparagraph (A).

''(3) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among eligible States in the following manner:

''(A) 50 percent equally among eligible States.

''(B) 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each eligible State during the preceding year.

''(h) REPORT TO CONGRESS.—For each fiscal year, the

SA 1662. Mr. NELSON of Florida (for himself, Mr. SHELBY, Ms. LANDRIEU, Mr. VITTER, Mr. RUBIO, Mr. SESSIONS, Mr. COCHRAN, Mr. WICKER, Mrs. HUTCHISON, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469 after line 22, add the following:

Subtitle F—Gulf Coast Restoration

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the ''Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012''.

SEC. 1602. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Gulf Coast Restoration Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such amounts as are deposited in the Trust Fund under this subtitle or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this subtitle; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subtitle and the amendments made by this subtitle.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this subtitle, including—

(1) procedures to assess whether the programs and activities carried out under this

subtitle and the amendments made by this subtitle achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other provisions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking ''and'' at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(27) the term 'Chairperson' means the Chairperson of the Council;

''(28) the term 'coastal political subdivision' means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

''(29) the term 'Comprehensive Plan' means the comprehensive plan developed by the Council pursuant to subsection (t);

''(30) the term 'Council' means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

''(31) the term 'Deepwater Horizon oil spill' means the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

''(32) the term 'Gulf Coast ecosystem' means—

''(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), except that, in this section, the term 'coastal zones' includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government) that border the Gulf of Mexico;

''(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and

''(C) all Federal waters in the Gulf of Mexico;

''(33) the term 'Gulf Coast State' means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

''(34) the term 'Trust Fund' means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.'';

(2) in subsection (s), by inserting ''except as provided in subsection (t)'' before the period at the end; and

(3) by adding at the end the following:

''(t) GULF COAST RESTORATION AND RECOVERY.—

''(1) STATE ALLOCATION AND EXPENDITURES.—

''(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast ecosystem in accordance with this subsection.

''(B) USE OF FUNDS.—

''(i) ELIGIBLE ACTIVITIES.—Amounts provided to the Gulf States under this subsection may only be used to carry out 1 or more of the following activities:

''(I) Coastal restoration projects and activities, including conservation and coastal land acquisition.

''(II) Mitigation of damage to, and restoration of, fish, wildlife, or natural resources.

''(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

''(IV) Programs to promote tourism in a Gulf Coast State, including recreational fishing.

''(V) Programs to promote the consumption of seafood produced from the Gulf Coast ecosystem.

''(VI) Programs to promote education regarding the natural resources of the Gulf Coast ecosystem.

''(VII) Planning assistance.

''(VIII) Workforce development and job creation.

''(IX) Improvements to or upon State parks located in coastal areas affected by the Deepwater Horizon oil spill.

''(X) Mitigation of the ecological and economic impact of outer Continental Shelf activities and the impacts of the Deepwater Horizon oil spill or promotion of the long-term ecological or economic recovery of the Gulf Coast ecosystem through the funding of infrastructure projects.

''(XI) Coastal flood protection and infrastructure directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

''(XII) Administrative costs of complying with this subsection.

''(ii) LIMITATION.—

''(I) IN GENERAL.—Of the amounts received by a Gulf State under this subsection not more than 3 percent may be used for administrative costs eligible under clause (i)(XII).

''(II) PROHIBITION ON USE FOR IMPORTED SEAFOOD.—None of the funds made available under this subsection shall be used for any program to support or promote imported seafood or any seafood product that is not harvested from the Gulf Coast ecosystem.

''(C) COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—In the case of a State where the coastal zone includes the entire State—

''(I) 75 percent of funding shall be provided to the 8 disproportionally affected counties impacted by the Deepwater Horizon Oil Spill; and

''(II) 25 percent shall be provided to nondisproportionately impacted counties within the State.

''(ii) FLORIDA.—

''(I) DISPROPORTIONALLY AFFECTED COUNTIES.—Of the total amounts made available to counties in the State of Florida under clause (i)(I)—

''(aa) 10 percent shall be distributed equally among the 8 disproportionately affected counties; and

''(bb) 90 percent shall be distributed to the 8 disproportionately affected counties in accordance with the following weighted formula:

''(AA) 30 percent based on the weighted average of the county shoreline oiled.

''(BB) 30 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

''(CC) 20 percent based on the weighted average of the population of the county.

''(DD) 20 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

''(II) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

''(aa) 34 percent based on the weighted average of the population of the county.

''(bb) 33 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

''(cc) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

''(iii) LOUISIANA.—Of the total amounts made available to the State of Louisiana under this paragraph:

''(I) 70 percent shall be provided directly to the State in accordance with this subsection.

''(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

''(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

''(bb) 40 percent based on the weighted average of the population of the parish.

''(cc) 20 percent based on the weighted average of the land mass of the parish.

''(iv) CONDITIONS.—

''(I) LAND USE PLAN.—As a condition of receiving amounts allocated under clause (iii), the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

''(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this subsection shall meet all of the conditions in subparagraph (D).

''(D) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (E), or a coastal political subdivision shall—

''(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

''(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

''(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

''(II) carries out 1 or more of the activities described in subparagraph (B)(i);

''(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

''(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

''(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this subsection are consistent with the standard procurement rules and regulations governing a comparable project or program in that

State, including all applicable competitive bidding and audit requirements; and

''(iv) develop and submit a multiyear implementation plan for use of those funds.

''(E) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

''(i) ALABAMA.—

''(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

''(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

''(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

''(cc) The Chairman of the Baldwin County Commission.

''(dd) The President of the Mobile County Commission.

''(ee) The Mayor of the city of Bayou La Batre.

''(ff) The Mayor of the town of Dauphin Island.

''(gg) The Mayor of the city of Fairhope.

''(hh) The Mayor of the city of Gulf Shores.

''(ii) The Mayor of the city of Mobile.

''(jj) The Mayor of the city of Orange Beach.

''(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

''(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

''(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

''(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

''(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet 1 of the activities described in subparagraph (B)(i), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

''(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

''(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

''(G) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this subsection are met.

''(H) PUBLIC INPUT.—In meeting any condition of this subsection, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with 1 or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

''(I) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (D) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

''(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (D); and

''(ii) the applicable project or program carries out 1 or more of the activities described in subparagraph (B)(ii).

''(J) CONSULTATION WITH COUNCIL.—In carrying out this subsection, each Gulf Coast State shall seek the input of the Chairperson of the Council to identify large-scale projects that may be jointly supported by that Gulf Coast State and by the Council pursuant to the Comprehensive Plan with amounts provided under this subsection.

''(K) NON-FEDERAL MATCHING FUNDS.—

''(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that meets the eligible use requirements under subparagraph (B)(i).

''(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

''(L) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this subsection, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State.

''(M) UNUSED FUNDS.—Any Funds not identified in an implementation plan by a State or coastal political subdivision in accordance with subparagraph (D)(iv) shall remain in the Trust Fund until such time as the State or coastal political subdivision to which the funds have been allocated develops and submits a plan identifying uses for those funds in accordance with subparagraph (D)(iv).

''(N) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

''(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

''(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 60 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

''(B) COUNCIL EXPENDITURES.—

''(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

''(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

''(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this subsection, not more than 3 percent may be used for administrative expenses, including staff.

''(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

''(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the 'Gulf Coast Ecosystem Restoration Council'.

''(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

''(I) The Chair of the Council on Environmental Quality.

''(II) The Secretary of the Interior.

''(III) The Secretary of the Army.

''(IV) The Secretary of Commerce.

''(V) The Administrator of the Environmental Protection Agency.

''(VI) The Secretary of Agriculture.

''(VII) The head of the department in which the Coast Guard is operating.

''(VIII) The Governor of the State of Alabama.

''(IX) The Governor of the State of Florida.

''(X) The Governor of the State of Louisiana.

''(XI) The Governor of the State of Mississippi.

''(XII) The Governor of the State of Texas.

''(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

''(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

''(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

''(vi) COUNCIL ACTIONS.—

''(I) IN GENERAL.—Subject to subclause (IV), significant actions by the Council shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective.

''(II) INCLUSIONS.—Significant actions include but are not limited to—

''(aa) approval of a Comprehensive Plan and future revisions to a Comprehensive Plan;

''(bb) approval of State plans pursuant to paragraph (3)(B)(iv); and

''(cc) approval of reports to Congress pursuant to clause (vii)(X).

''(III) QUORUM.—A quorum of State members shall be required to be present for the Council to take any significant action.

''(IV) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraphs (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, is deemed to satisfy the requirements for affirmative votes under subclause (I).

''(V) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including votes on significant actions and associated deliberations, shall be made available to the public.

''(vii) DUTIES OF COUNCIL.—The Council shall—

''(I) develop the Comprehensive Plan, and future revisions to the Comprehensive Plan;

''(II) identify as soon as practicable the projects that—

''(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

''(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast ecosystem;

''(III) coordinate the development of consistent policies, strategies, plans, and activities by Federal agencies, State and local governments, and private sector entities for addressing the restoration and protection of the Gulf Coast ecosystem;

''(IV) establish such other advisory committee or committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

''(V) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

''(VI) seek to ensure that all policies, strategies, plans, and activities for addressing the restoration of the Gulf Coast ecosystem are based on the best available physical, ecological, and economic data;

''(VII) make recommendations to address the particular needs of especially economically and socially vulnerable populations;

''(VIII) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State;

''(IX) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States;

''(X) submit to Congress an annual report that—

''(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast ecosystem;

''(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast ecosystem; and

''(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan; and

''(XI) submit to Congress a final report on the date on which all funds made available to the Council are expended.

''(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subsection, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

''(D) COMPREHENSIVE PLAN.—

''(i) PROPOSED PLAN.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(II) CONTENTS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

''(ii) PUBLICATION.—

''(I) INITIAL PLAN.—Not later than 1 year after date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President's Gulf Coast Restoration Task Force.

''(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded by a center of excellence or the Gulf Fisheries and Ecosystem Endowment established pursuant to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program under section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(IV) CONTENTS.—The initial Comprehensive Plan shall include—

''(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President's Gulf Coast Restoration Task Force;

''(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

''(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

''(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by Gulf Coast State.

''(V) PLAN UPDATES.—The Council shall update—

''(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subsection for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

''(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

''(iii) RESTORATION PRIORITIES.—Except for projects and programs described in subclause (IV)(bb), in selecting projects and programs to include on the 3-year list described in subclause (IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

''(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem, without regard to geographic location.

''(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

''(E) IMPLEMENTATION.—

''(i) IN GENERAL.—The Council, acting through the member agencies and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

''(ii) ADMINISTRATIVE RESPONSIBILITY.—

''(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

''(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(iii) COST SHARING.—

''(I) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision from the Trust Fund to satisfy the non-Federal share of the cost of carrying a project or program that—

''(aa) is authorized by other Federal law; and

''(bb) meets the criteria of subparagraph (D).

''(II) INCLUSION IN COMPREHENSIVE PLAN.—A project or program described in subclause (I) that meets the criteria for inclusion in the Comprehensive Plan described in subparagraph (D) shall be selected and adopted by the Council as part of the Comprehensive Plan in the manner described in subparagraph (D).

''(F) COORDINATION.—The Council and the Federal members of the Council may develop Memorandums of Understanding establishing integrated funding and implementation plans among the member agencies and authorities.

''(G) TERMINATION.—The Council shall terminate on the date on which the report described in subparagraph (C)(vii)(XI) is submitted to Congress.

''(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

''(A) IN GENERAL.—Except as provided in paragraph (4), of the total amount made available to the Council under paragraph (2) in any fiscal year from the Trust Fund, 50

percent shall be disbursed by the Council as follows:

''(i) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

''(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling as of April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

''(II) 40 percent based on the inverse proportion of the average distance from the Deepwater Horizon oil rig to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

''(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

''(ii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (i) shall be at least 5 percent of the total amounts made available under this paragraph.

''(B) APPROVAL OF PROJECTS AND PROGRAMS.—

''(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph which meet the following criteria:

''(I) All projects, programs, and activities included in that plan are eligible activities pursuant to paragraph (1)(B)(i).

''(II) The projects, programs, and activities included in that plan contribute to the overall economic and ecological recovery of the Gulf Coast.

''(III) The plan takes into consideration the Comprehensive Plan and is consistent with its goals and objectives, as described in paragraph (2)(B)(i).

''(ii) FUNDING.—

''(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i).

''(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i) if the plan certifies that—

''(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

''(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

''(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

''(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(E)(i);

''(II) in the State of Florida, a consortia of local political subdivisions that includes at least 1 representative of each disproportionally affected county;

''(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

''(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

''(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

''(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

''(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

''(i) provide the reasons for disapproval in writing; and

''(ii) consult with the State to address any identified deficiencies with the State plan.

''(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this subsection, any funds made available under this subsection shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this subsection.

''(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

''(4) AUTHORIZATION OF INTEREST TRANSFERS.—

''(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, an amount equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

''(i) 50 percent shall be transferred to the National Endowment for Oceans in subparagraph (B); and

''(ii) 50 percent shall be transferred to the Gulf of Mexico Research Endowment in subparagraph (C).

''(B) NATIONAL ENDOWMENT FOR THE OCEANS.—

''(i) ESTABLISHMENT.—

''(I) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Endowment for the Oceans', consisting of such amounts as may be appropriated or credited to the National Endowment for the Oceans.

''(II) INVESTMENT.—Amounts in the National Endowment for the Oceans shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subparagraph.

''(ii) TRUSTEE.—The trustee for the National Endowment for the Oceans shall be the Secretary of Commerce.

''(iii) ALLOCATION OF FUNDS.—

''(I) IN GENERAL.—Each fiscal year, the Secretary shall allocate, at a minimum, an amount equal to the interest earned by the National Endowment for the Oceans in the preceding fiscal year, and may distribute an amount equal to up to 10 percent of the total amounts in the National Endowment for the Oceans—

''(aa) to allocate funding to coastal states (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)) and affected Indian tribes;

''(bb) to make grants to regional ocean and coastal planning bodies; and

''(cc) to develop and implement a National Grant Program for Oceans and Coastal Waters.

''(II) PROGRAM ADJUSTMENTS.—Each fiscal year where the amount described in subparagraph (A)(i) does not exceed $100,000,000, the Secretary may elect to fund only the grant program established in subclause (I)(cc).

''(iv) ELIGIBLE ACTIVITIES.—Funds deposited in the National Endowment for the Oceans may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and resources in ocean and coastal waters (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)), including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are consistent with Federal environmental laws and that avoid environmental degradation.

''(v) APPLICATION.—To be eligible to receive a grant under clause (iii)(I), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

''(vi) FUNDING FOR COASTAL STATES.—The Secretary shall allocate funding among States as follows:

''(I) 50 percent of the funds shall be allocated equally among coastal States.

''(II) 25 percent of the funds shall be allocated based on tidal shoreline miles.

''(III) 25 percent of the funds shall be allocated based on the coastal population density of a coastal State.

''(IV) No State shall be allocated more than 10 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

''(V) No territory shall be allocated more than 1 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

''(C) GULF OF MEXICO RESEARCH ENDOWMENT.—

''(i) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Gulf of Mexico Research Endowment', to be administered by the Secretary of Commerce, solely for use in providing long-term funding in accordance with section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(ii) INVESTMENT.—Amounts in the Gulf of Mexico Research Endowment shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and, after adjustment for inflation so as to maintain the value of the principal, any interest on, and proceeds from, any such investment shall be available for expenditure and shall be allocated in equal portions to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program and Fisheries Endowment established in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.''.

SEC. 1604. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) FISHERIES AND ECOSYSTEM ENDOWMENT.—The term ''Fisheries and Ecosystem Endowment'' means the endowment established by subsection (d).

(3) PROGRAM.—The term ''Program'' means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program established by subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—There is established within the National Oceanic and Atmospheric Administration a program to be

known as the ''Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program'', to be carried out by the Administrator.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—In carrying out the Program, the Administrator, in consultation with other Federal agencies with expertise in the discipline of a center of excellence, shall make grants in accordance with paragraph (2) to establish and operate 5 centers of excellence, 1 of which shall be located in each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(2) GRANTS.—

(A) IN GENERAL.—The Administrator shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in paragraph (1).

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, an entity or consortium described in subparagraph (A) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

(C) PRIORITY.—In awarding grants under this paragraph, the Administrator shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in paragraph (3) on which the proposal of the center of excellence will be focused.

(3) DISCIPLINES.—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(A) Coastal and deltaic sustainability, restoration and protection; including solutions and technology that allow citizens to live safely and sustainably in a coastal delta.

(B) Coastal fisheries and wildlife ecosystem research and monitoring.

(C) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources.

(D) Sustainable and resilient growth, economic and commercial development in the Gulf Coast.

(E) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

(4) COORDINATION WITH OTHER PROGRAMS.—The Administrator shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM ENDOWMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Council shall establish a fishery and ecosystem endowment to ensure, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) ADMINISTRATION AND IMPLEMENTATION.—The Fisheries and Ecosystem Endowment shall be administered by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the United States Fish and Wildlife Service, with guidance provided by the Regional Gulf of Mexico Fishery Management Council.

(4) SPECIES INCLUDED.—The Fisheries and Ecosystem Endowment will include all marine, estuarine, aquaculture, and fish and wildlife species in State and Federal waters of the Gulf of Mexico.

(5) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(A) build on, or are coordinated with, related research activities; and

(B) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(6) DUPLICATION AND COORDINATION.—In carrying out this subsection, the Administrator shall seek to avoid duplication of other research and monitoring activities and coordinate with existing research and monitoring programs, including the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

(e) FUNDING.—

(1) IN GENERAL.—Except as provided in subsection (t)(4) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 1602, 5 percent shall be allocated in equal portions to the Program and Fisheries and Ecosystem Endowment established by this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts received by the National Oceanic and Atmospheric Administration to carry out this section, not more than 3 percent may be used for administrative expenses.

SEC. 1605. EFFECT.

(a) IN GENERAL.—Nothing in this subtitle or any amendment made by this subtitle—

(1) supersedes or otherwise affects any provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(b) USE OF FUNDS.—Funds made available under this subtitle may be used only for eligible activities specifically authorized by this subtitle.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 15, 2011, at 9:30 a.m. in room SD–G50 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 15, 2011, at 9:30 a.m. in room SD–G50 of the Dirksen Senate Office Building to conduct a hearing entitled ''Energy and Economic Growth for Rural America.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 15, 2012, at 10:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The President's Budget for Fiscal Year 2013.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 15, 2012, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Protecting Those Who Protect Us: The Bulletproof Vest Partnership Grant Program.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 15, 2012, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER PROTECTION

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Financial Institutions and Consumer Protection be authorized to meet during the session of the Senate on February 15, 2012, at 2 p.m., to conduct a hearing entitled ''Pay for Performance: Incentive Compensation at Large Financial Institutions.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that a fellow in my office, Nicole Smith, be allowed the privilege of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE USE OF EMANCIPATION HALL

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con.

Res. 99, which was received from the House and is at the desk.

The PRESIDING OFFICER (Mr. BENNET). The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 99) authorizing the use of the Emancipation Hall in the Capitol Visitor Center for a ceremony to unveil the marker which acknowledges the role that slave labor played in the construction of the United States Capitol.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the preamble be agreed to, the concurrent resolution be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 99) was agreed to.

The preamble was agreed to.

PROMOTING PERMANENT FAMILY CARE FOR CHILDREN

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 378, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 378) expressing the sense of the Senate that children should have a safe, loving, nurturing, and permanent family and that it is the policy of the United States that family reunification, kinship care, or domestic and inter-country adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MERKLEY. Mr. President, I further ask that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 378) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 378

Whereas the family is the basic unit of society and contributes to the emotional, financial, and material support essential for the healthy growth and development of children;

Whereas children without a family or connections to siblings and relatives or a permanent relationship with a caring adult are at risk of being homeless, growing up in substandard institutional care, and are vulnerable to sexual and labor exploitation and abuse;

Whereas research has shown that children who are abandoned, abused, or severely neglected can face significant risks that are costly to society, including lower individual lifetime earnings, poorer educational achievement, and higher consumption of health services, which in turn could lead to a greater risk of criminal activity and greater risk of incarceration;

Whereas there is scientific evidence that children deprived of a family, including connections with siblings, often experience trauma, which can have a detrimental impact on the development of a child;

Whereas some estimates show that there are approximately 18 million children in the world who have lost both parents and at least 2 million children in the world who are in institutional care;

Whereas there are approximately 408,000 children in the United States foster-care system and 107,000 of them are awaiting adoption;

Whereas within the current foster-care system, many children are overmedicated, housed in inadequate group homes, denied the ability to engage in age-appropriate activities, such as afterschool activities, and often denied access to their siblings or placement with a relative guardian due to insufficient efforts to locate family members;

Whereas thousands of children who ''age out'' of the foster-care system in the United States every year lack the security or support of a biological or adoptive family, connections with siblings and relatives, or a permanent relationship with a caring adult and struggle to secure affordable housing, health insurance, higher education, and adequate employment;

Whereas current governmental efforts to assist these highly vulnerable children in the United States and around the world do not include an effective strategy for securing a protective family, connections with siblings and relatives, or a permanent relationship with a caring adult for every child; and

Whereas while there have been several bipartisan laws enacted in the past several years that have made progress on a number of needed child-welfare reforms, much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) affirms that all children in the world, including those with special needs, deserve a safe, loving, nurturing, and permanent family, connections with siblings and relatives, or a permanent relationship with a caring adult;

(B) acknowledges that the United States Government can and should do more by working with the private sector, nonprofit organizations, and faith-based communities to implement cost effective strategies that connect children living outside of family care with a permanent, supportive family, or connections with siblings and relatives, or a permanent relationship with a caring adult;

(C) encourages States, counties, cities, and to the extent appropriate, other governments to invest resources in family preservation, reunification services, services to help older youth transition out of care with a connection to siblings, relatives or a caring adult, kinship adoption, domestic adoption, and intercountry adoption and post adoption strategies to ensure that more children in the United States are provided with safe, loving, and permanent family placements or a permanent relationship with a caring adult; and

(D) recognizes the United States Agency for International Development and the Department of State for recent efforts to develop a strategy for meeting the unique needs of children living outside of family care;

(2) it is the sense of the Senate that children should have a safe, loving, nurturing, and permanent family; and

(3) it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

MEASURE READ THE 1ST TIME—S. 2111

Mr. MERKLEY. Mr. President, I understand S. 2111, introduced earlier today by Senator LEAHY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2111) to enhance punishment for identity theft and other violations of data privacy and security.

Mr. MERKLEY. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, FEBRUARY 16, 2012

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate adjourn until 10 a.m., on Thursday, February 16, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of S. 1813, the surface transportation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MERKLEY. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:11 p.m., adjourned until Thursday, February 16, 2012, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 15, 2012:

THE JUDICIARY

ADALBERTO JOSE JORDAN, OF FLORIDA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.