

112TH CONGRESS
1ST SESSION

S. _____

To facilitate job creation by reducing regulatory uncertainty, providing for rational evaluation of regulations, providing flexibilities to States and localities, providing for infrastructure spending, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To facilitate job creation by reducing regulatory uncertainty, providing for rational evaluation of regulations, providing flexibilities to States and localities, providing for infrastructure spending, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Long-Term Surface Transportation Extension Act of
6 2011”.

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

2

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 101. Reconciliation of funds.

Subtitle B—Extension of Federal-aid Highway Programs

Sec. 111. Extension of Federal-aid highway programs.

Subtitle C—Highway Trust Fund Extension

Sec. 121. Extension of trust fund expenditure authority.

Sec. 122. Extension of highway-related taxes.

Subtitle D—Accelerating Project Delivery

Sec. 131. Project delivery acceleration initiative.

Sec. 132. Efficiencies in contracting.

Sec. 133. Application of categorical exclusions for multimodal projects.

Sec. 134. Integration of planning and environmental review.

Sec. 135. National Environmental Policy Act process reforms.

Sec. 136. Clarified eligibility for early acquisition activities prior to completion of environmental review process.

Sec. 137. Surface transportation project delivery program.

Sec. 138. State assumption of responsibilities for categorical exclusions.

Sec. 139. Emergency waiver.

Sec. 140. Cement sector regulatory relief.

TITLE II—PUBLIC TRANSPORTATION

Sec. 201. Public transportation.

TITLE III—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

Sec. 301. Extension of National Highway Traffic Safety Administration highway safety programs.

Sec. 302. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 303. Additional programs.

TITLE IV—REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY

Sec. 401. Short title.

Sec. 402. Findings and purpose.

Sec. 403. Congressional review of agency rulemaking.

TITLE V—EPA REGULATORY RELIEF

Sec. 501. Short title.

Sec. 502. Legislative stay.

Sec. 503. Compliance dates.

Sec. 504. Energy recovery and conservation.

Sec. 505. Other provisions.

TITLE VI—REGULATORY TIME-OUT

Sec. 601. Short title.
 Sec. 602. Definitions.
 Sec. 603. Time-out period for regulations.
 Sec. 604. Exemptions.

TITLE VII—RESCISSION OF UNSPENT FEDERAL FUNDS TO
 OFFSET LOSS IN REVENUES

Sec. 701. Rescission.

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

4 **SEC. 101. RECONCILIATION OF FUNDS.**

5 The Secretary of Transportation shall reduce the
 6 amount apportioned or allocated for each program,
 7 project, and activity under this Act or an amendment
 8 made by this Act for fiscal year 2012 by amounts appor-
 9 tioned or allocated pursuant to the Surface Transpor-
 10 tation Extension Act of 2011, Part II (Public Law 112–
 11 30; 125 Stat. 343), for the period beginning on October
 12 1, 2011, and ending on March 4, 2012.

13 **Subtitle B—Extension of Federal-**
 14 **aid Highway Programs**

15 **SEC. 111. EXTENSION OF FEDERAL-AID HIGHWAY PRO-**
 16 **GRAMS.**

17 (a) IN GENERAL.—Section 111 of the Surface Trans-
 18 portation Extension Act of 2011, Part II (125 Stat. 343)
 19 is amended—

20 (1) by striking “for the period beginning on Oc-
 21 tober 1, 2011, and ending on March 31, 2012,” each

1 place it appears and inserting “for each of fiscal
2 years 2012 and 2013”; and

3 (2) by striking “1/2 of” each place it appears.

4 (b) AUTHORIZATION DATE.—Section 111(a) of the
5 Surface Transportation Extension Act of 2011, Part II
6 (125 Stat. 343) is amended by striking “March 31, 2012”
7 and inserting “September 30, 2013”.

8 (c) USE OF FUNDS.—

9 (1) IN GENERAL.—Section 111(c) of the Sur-
10 face Transportation Extension Act of 2011, Part II
11 (125 Stat. 343) is amended—

12 (A) in the heading of paragraph (1), by
13 striking “FISCAL YEAR 2012” and inserting “IN
14 GENERAL”;

15 (B) in paragraph (2), by striking “The
16 amounts” and inserting “For each of fiscal
17 years 2012 and 2013, the amounts”;

18 (C) in paragraph (3)–

19 (i) in subparagraph (A), by striking
20 “included in an Act making appropriations
21 for fiscal year 2012 or” and all that fol-
22 lows through the period at the end and in-
23 serting “included in an Act making appro-
24 priations for the fiscal year, or a portion of

1 the fiscal year, for which the funds are au-
2 thorized to be appropriated”; and

3 (ii) in subparagraph (B)(ii), by strik-
4 ing “only in an amount equal to
5 \$319,500,000” and inserting “only in an
6 amount equal to \$639,000,000”; and

7 (D) by striking paragraph (4) and insert-
8 ing the following:

9 “(4) TRANSPORTATION ENHANCEMENTS.—
10 Funds shall be distributed, administered, limited,
11 and made available for obligation under paragraph
12 (1) without regard to section 133(d)(2) of title 23,
13 United States Code (as in effect on the day before
14 the date of enactment of the Long-Term Surface
15 Transportation Extension Act of 2011.”.

16 (2) REPEAL.—Section 133(d)(2) of title 23,
17 United States Code, is repealed.

18 (d) EXTENSION AND FLEXIBILITY FOR CERTAIN AL-
19 LOCATED PROGRAMS.—Section 111(d)(3)(B) of the Sur-
20 face Transportation Extension Act of 2011, Part II (125
21 Stat. 345) is amended by striking “Funds made available
22 in accordance” and inserting “For each of fiscal years
23 2012 and 2013, funds made available in accordance”.

24 (e) EXTENSION OF AUTHORIZATIONS UNDER TITLE
25 V OF SAFETEA-LU.—Section 111(e)(3)(B) of the Sur-

1 face Transportation Extension Act of 2011, Part II (125
2 Stat. 345) is amended by striking “Funds” and inserting
3 “For each of fiscal years 2012 and 2013, funds”.

4 (f) ADMINISTRATIVE EXPENSES.—Section 112 of the
5 Surface Transportation Extension Act of 2011, Part II
6 (125 Stat. 346) is amended by striking “\$196,427,625 for
7 the period beginning on October 1, 2011, and ending on
8 March 31, 2012” and inserting “\$425,000,000 for each
9 of fiscal years 2012 and 2013”.

10 **Subtitle C—Highway Trust Fund** 11 **Extension**

12 **SEC. 121. EXTENSION OF TRUST FUND EXPENDITURE AU-** 13 **THORITY.**

14 (a) HIGHWAY TRUST FUND.—Section 9503 of the
15 Internal Revenue Code of 1986 is amended—

16 (1) by striking “April 1, 2012” in subsections
17 (b)(6)(B), (c)(1), and (e)(3) and inserting “October
18 1, 2013”; and

19 (2) by striking “Surface Transportation Exten-
20 sion Act of 2011, Part II” in subsections (c)(1) and
21 (e)(3) and inserting “Long-Term Surface Transpor-
22 tation Extension Act of 2011”.

23 (b) SPORT FISH RESTORATION AND BOATING TRUST
24 FUND.—Section 9504 of the Internal Revenue Code of
25 1986 is amended—

1 (1) by striking “Surface Transportation Extension
2 Act of 2011, Part II” each place it appears in
3 subsection (b)(2) and inserting “Long-Term Surface
4 Transportation Extension Act of 2011”; and

5 (2) by striking “April 1, 2012” in subsection
6 (d)(2) and inserting “October 1, 2013”.

7 (c) LEAKING UNDERGROUND STORAGE TANK TRUST
8 FUND.—Paragraph (2) of section 9508(e) of the Internal
9 Revenue Code of 1986 is amended by striking “April 1,
10 2012” and inserting “October 1, 2013”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on April 1, 2012.

13 **SEC. 122. EXTENSION OF HIGHWAY-RELATED TAXES.**

14 (a) IN GENERAL.—

15 (1) Each of the following provisions of the Internal
16 Revenue Code of 1986 is amended by striking
17 “March 31, 2012” and inserting “September 30,
18 2013”:

19 (A) Section 4041(a)(1)(C)(iii)(I).

20 (B) Section 4041(m)(1)(B).

21 (C) Section 4081(d)(1).

22 (2) Each of the following provisions of such
23 Code is amended by striking “April 1, 2012” and inserting
24 “October 1, 2013”:

25 (A) Section 4041(m)(1)(A).

1 (B) Section 4051(c).

2 (C) Section 4071(d).

3 (D) Section 4081(d)(3).

4 (b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN
5 HEAVY VEHICLES.—Each of the following provisions of
6 the Internal Revenue Code of 1986 is amended by striking
7 “2012” and inserting “2014”:

8 (1) Section 4481(f).

9 (2) Subsections (c)(4) and (d) of section 4482.

10 (c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1)
11 of the Internal Revenue Code of 1986 is amended—

12 (1) by striking “April 1, 2012” each place it
13 appears and inserting “October 1, 2013”;

14 (2) by striking “September 30, 2012” each
15 place it appears and inserting “March 31, 2014”;
16 and

17 (3) by striking “July 1, 2012” and inserting
18 “January 1, 2014”.

19 (d) EXTENSION OF CERTAIN EXEMPTIONS.—Sec-
20 tions 4221(a) and 4483(i) of the Internal Revenue Code
21 of 1986 are each amended by striking “April 1, 2012”
22 and inserting “October 1, 2013”.

23 (e) EXTENSION OF TRANSFERS OF CERTAIN
24 TAXES.—

1 (1) IN GENERAL.—Section 9503 of the Internal
2 Revenue Code of 1986 is amended—

3 (A) in subsection (b)—

4 (i) by striking “April 1, 2012” each
5 place it appears in paragraphs (1) and (2)
6 and inserting “October 1, 2013”;

7 (ii) by striking “APRIL 1, 2012” in the
8 heading of paragraph (2) and inserting
9 “OCTOBER 1, 2013”;

10 (iii) by striking “March 31, 2012” in
11 paragraph (2) and inserting “September
12 30, 2013”; and

13 (iv) by striking “January 1, 2013” in
14 paragraph (2) and inserting “July 1,
15 2014”; and

16 (B) in subsection (c)(2), by striking “Jan-
17 uary 1, 2013” and inserting “July 1, 2014”.

18 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
19 TRANSFERS.—

20 (A) IN GENERAL.—Paragraphs (3)(A)(i)
21 and (4)(A) of section 9503(c) of such Code are
22 each amended by striking “April 1, 2012” and
23 inserting “October 1, 2013”.

24 (B) CONFORMING AMENDMENTS TO LAND
25 AND WATER CONSERVATION FUND.—Section

1 201(b) of the Land and Water Conservation
2 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
3 amended—

4 (i) by striking “April 1, 2013” each
5 place it appears and inserting “October 1,
6 2014”; and

7 (ii) by striking “April 1, 2012” and
8 inserting “October 1, 2013”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on April 1, 2012.

11 **Subtitle D—Accelerating Project**
12 **Delivery**

13 **SEC. 131. PROJECT DELIVERY ACCELERATION INITIATIVE.**

14 (a) DECLARATION OF POLICY.—Congress finds
15 that—

16 (1) it is in the national interest to enable the
17 Secretary of Transportation (referred to in this sub-
18 title as “the Secretary”), State departments of
19 transportation, transit agencies, and all other recipi-
20 ents of Federal transportation funds—

21 (A) to accelerate project delivery accelera-
22 tion and reduce costs; and

23 (B) to ensure that the planning, design,
24 engineering, construction, and financing of

1 transportation projects is done in an efficient
2 and effective manner that—

3 (i) promotes accountability for public
4 investments; and

5 (ii) encourages greater private sector
6 involvement in project financing and deliv-
7 ery;

8 (2) delay in the delivery of transportation
9 projects—

10 (A) increases project costs;

11 (B) harms the economy of the United
12 States; and

13 (C) impedes the travel of the people of the
14 United States; and

15 (3) the Secretary shall identify and promote the
16 deployment of innovation aimed at reducing the time
17 and money it takes to deliver transportation projects
18 while enhancing safety and protecting the environ-
19 ment.

20 (b) ESTABLISHMENT OF INITIATIVE.—

21 (1) IN GENERAL.—To advance the policy identi-
22 fied in subsection (a), the Secretary shall carry out
23 a project delivery acceleration initiative in accord-
24 ance with this section.

1 (2) PURPOSES.—The purposes of the project
2 delivery acceleration initiative shall be—

3 (A) to develop and advance the use of best
4 practices to accelerate project delivery and re-
5 duce costs across all modes of transportation
6 and expedite the deployment of technology and
7 innovation;

8 (B) to implement statutory provisions de-
9 signed to accelerate project delivery; and

10 (C) to select eligible projects for applying
11 experimental features to test innovative project
12 delivery acceleration techniques.

13 (3) ADVANCING THE USE OF BEST PRAC-
14 TICES.—

15 (A) IN GENERAL.—In carrying out the ini-
16 tiative under this section, the Secretary shall
17 identify and advance best practices to reduce
18 delivery time and project costs, from planning
19 to construction, for transportation projects and
20 programs of projects regardless of mode and
21 project size.

22 (B) REQUIREMENT.—To advance the use
23 of best practices, the Secretary shall—

24 (i) engage transportation stakeholders
25 to gather information regarding opportuni-

1 ties for accelerating project delivery and
2 reducing costs;

3 (ii) establish a clearinghouse for the
4 collection, documentation, and advance-
5 ment of existing and new innovative ap-
6 proaches and best practices;

7 (iii) disseminate information through
8 a variety of means to transportation stake-
9 holders on new innovative approaches and
10 best practices; and

11 (iv) provide technical assistance to as-
12 sist transportation stakeholders in the use
13 of existing flexibilities to resolve project
14 delays and accelerate project delivery, to
15 the maximum extent practicable.

16 (4) IMPLEMENTING STATUTORY PROVISIONS
17 FOR ACCELERATING PROJECT DELIVERY.—The Sec-
18 retary shall ensure that the provisions of this sub-
19 title and the amendments made by this subtitle in-
20 tended to accelerate project delivery are fully imple-
21 mented, including by—

22 (A) compressing the process for drafting
23 environmental impact statements under the Na-
24 tional Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.);

1 (B) establishing mandatory timeframes for
2 permitting and approval decisions of other Fed-
3 eral agencies;

4 (C) integrating transportation planning
5 and environmental review of transportation
6 projects;

7 (D) expanding eligibility of early acquisi-
8 tion of property prior to completion of environ-
9 mental review under the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et
11 seq.);

12 (E) allowing the use of the construction
13 manager or general contractor method of con-
14 tracting in the Federal-aid highway program;

15 (F) establishing a demonstration program
16 to streamline the relocation process by permit-
17 ting a lump-sum payment for acquisition and
18 relocation if elected by the displaced occupant;
19 and

20 (G) establishing a pilot program to provide
21 direct Federal-aid highway funding to local gov-
22 ernments.

23 (5) ADVANCING INNOVATIVE PROJECT DELIV-
24 ERY.—In order to accelerate project delivery and re-
25 duce costs for transportation projects across all

1 modes and regardless of project size, to the max-
2 imum extent practicable, the Secretary shall use the
3 authority under section 304 of title 49, United
4 States Code (as amended by section 133(a)).

5 **SEC. 132. EFFICIENCIES IN CONTRACTING.**

6 (a) **AUTHORITY.**—Section 112(b) of title 23, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(4) **CONSTRUCTION MANAGER; GENERAL CON-**
10 **TRACTOR.**—

11 “(A) **2-PHASES CONTRACT.**—

12 “(i) **IN GENERAL.**—A contracting
13 agency may award a 2-phase contract to a
14 construction manager or general contractor
15 for pre-construction and construction serv-
16 ices.

17 “(ii) **PRE-CONSTRUCTION PHASE.**—In
18 the pre-construction phase, the construc-
19 tion manager shall provide the contracting
20 agency with advice for scheduling, work se-
21 quencing, cost engineering,
22 constructability, cost estimating, and risk
23 identification.

24 “(iii) **PRICE.**—Prior to the start of
25 the second phase, the owner and the con-

1 construction manager may agree to a price for
2 the construction of the project or a portion
3 of the project.

4 “(iv) GENERAL CONTRACTOR.—If an
5 agreement is reached under clause (iii), the
6 construction manager shall be considered
7 the general contractor for the construction
8 of the project at the negotiated schedule
9 and price.

10 “(B) SELECTION.—A contract shall be
11 awarded to a construction manager or general
12 contractor using a competitive selection process
13 under which the contract is awarded on the
14 basis of qualifications, experience, best value, or
15 any other combination of factors considered ap-
16 propriate by the contracting agency.

17 “(C) TIMING.—

18 “(i) IN GENERAL.—Prior to the com-
19 pletion of the process required under sec-
20 tion 102 of the National Environmental
21 Policy Act of 1969 (42 U.S.C. 4332), a
22 contracting agency may—

23 “(I) issue requests for proposals;

24 “(II) proceed with the award of
25 the first phase of construction man-

1 ager or general contractor contract;
2 and

3 “(III) issue notices to proceed
4 with preliminary design.

5 “(ii) COMPLIANCE WITH OTHER
6 LAW.—If the first phase of a construction
7 manager or general contractor contract fo-
8 cuses primarily on 1 alternative, the Sec-
9 retary shall require that the contract in-
10 clude appropriate provisions to ensure—

11 “(I) that the objectives of section
12 102 of the National Environmental
13 Policy Act of 1969 (42 U.S.C. 4332)
14 are achieved; and

15 “(II) compliance with other ap-
16 plicable Federal laws and regulations
17 occurs.

18 “(iii) REQUIREMENT.—A contracting
19 agency shall not proceed with the award of
20 the second phase, and shall not proceed, or
21 permit any consultant or contractor to pro-
22 ceed, with final design or construction
23 until completion of the process required
24 under section 102 of the National Environ-

1 mental Policy Act of 1969 (42 U.S.C.
2 4332).

3 “(D) APPLICABILITY.—This paragraph
4 shall not apply to any project funded under
5 chapter 53 of title 49.”.

6 (b) REGULATIONS.—The Secretary shall promulgate
7 such regulations as are necessary to carry out the amend-
8 ments made by this section.

9 (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing
10 in this section or the amendments made by this section
11 affects the authority to carry out, or any project carried
12 out under, any experimental program concerning construc-
13 tion manager risk that is being carried out by the Sec-
14 retary as of the date of enactment of this Act.

15 **SEC. 133. APPLICATION OF CATEGORICAL EXCLUSIONS**
16 **FOR MULTIMODAL PROJECTS.**

17 (a) IN GENERAL.—Section 304 of title 49, United
18 States Code, is amended to read as follows:

19 **“§ 304. Application of categorical exclusions for**
20 **multimodal projects**

21 “(a) DEFINITIONS.—In this section:

22 “(1) AGENCY.—The term ‘agency’ has the
23 meaning given the term in section 139 of title 23.

1 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

2 The term ‘environmental impact statement’ has the
3 meaning given the term in section 139 of title 23.

4 “(3) ENVIRONMENTAL REVIEW PROCESS.—The
5 term ‘environmental review process’ has the meaning
6 given the term in section 139 of title 23.

7 “(4) LEAD AGENCY.—The term ‘lead agency’
8 means the Department of Transportation and, if ap-
9 plicable, any State or local governmental agency that
10 serves as the lead agency for a multimodal project.

11 “(5) MULTIMODAL PROJECT.—The term
12 ‘multimodal project’ has the meaning given the term
13 in section 139 of title 23.

14 “(6) PROJECT.—The term ‘project’ has the
15 meaning given the term in section 139 of title 23.

16 “(7) STATE TRANSPORTATION DEPARTMENT.—
17 The term ‘State transportation department’ has the
18 meaning given the term in section 139 of title 23.

19 “(b) APPLICABILITY.—Any authority provided in this
20 section may be exercised for any multimodal project, class
21 of projects, or program of projects that is carried out
22 under this title.

23 “(c) APPLICATION OF CATEGORICAL EXCLUSIONS
24 FOR MULTIMODAL PROJECTS.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 in considering the environmental impacts of a pro-
3 posed multimodal project, a lead agency may apply
4 1 or more categorical exclusions under the National
5 Environmental Policy Act of 1969 (42 U.S.C. 4321
6 et seq.) to other components of the project carried
7 out by a participating agency or State transpor-
8 tation department if the lead agency determines
9 that—

10 “(A) based on regulations or procedures of
11 the lead agency for determining categorical ex-
12 clusions, the components of the project that fall
13 under the modal expertise of the lead agency
14 satisfy the conditions for 1 or more categorical
15 exclusions under the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
17 and

18 “(B) the project does not require the prep-
19 aration of an environmental impact statement.

20 “(2) EXCLUSIONS.—Paragraph (1) shall only
21 apply if—

22 “(A) the multimodal project is funded
23 under a grant agreement administered by the
24 lead agency;

1 “(B) the multimodal project has compo-
2 nents that require the expertise of a partici-
3 pating agency to assess the environmental im-
4 pacts of the components of the project;

5 “(C) each component of the project has
6 independent utility;

7 “(D) the participating agency, in consulta-
8 tion with the lead agency, determines that,
9 based on regulations or procedures of the par-
10 ticipating agency for determining categorical ex-
11 clusions, 1 or more categorical exclusions under
12 the National Environmental Policy Act of 1969
13 (42 U.S.C. 4321 et seq.) applies to the compo-
14 nents of the project under the modal expertise
15 of the participating agency; and

16 “(E) the lead agency determines that—

17 “(i) the project does not individually
18 or cumulatively have a significant impact
19 on the environment; and

20 “(ii) extraordinary circumstances do
21 not exist.

22 “(d) MODAL COOPERATION.—

23 “(1) IN GENERAL.—At the request of the lead
24 agency, a participating agency shall provide modal
25 expertise to a lead agency on any aspect of the

1 project in which the participating agency has exper-
2 tise.

3 “(2) APPLICABILITY.—A determination of a
4 participating agency that 1 or more categorical ex-
5 clusions under the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4321 et seq.) applies to an
7 aspect of a multimodal project shall only apply to
8 the larger multimodal project if, based on regula-
9 tions or procedures of the participating agency for
10 determining categorical exclusions, the participating
11 agency determines that 1 or more categorical exclu-
12 sions apply to the applicable aspect of a multimodal
13 project.”.

14 (b) CONFORMING AMENDMENT.—The item relating
15 to section 304 in the analysis for chapter 3 of title 49,
16 United States Code, is amended to read as follows:

“Sec. 304. Application of categorical exclusions for multimodal projects”.

17 **SEC. 134. INTEGRATION OF PLANNING AND ENVIRON-**
18 **MENTAL REVIEW.**

19 (a) IN GENERAL.—Chapter 1 of title 23, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

22 **“§ 167. Integration of planning and environmental re-**
23 **view**

24 “(a) DEFINITIONS.—In this section:

1 “(1) ENVIRONMENTAL REVIEW PROCESS.—The
2 term ‘environmental review process’ has the meaning
3 given the term in section 139.

4 “(2) LEAD AGENCY.—The term ‘lead agency’
5 has the meaning given the term in section 139.

6 “(3) PLANNING PRODUCT.—The term ‘planning
7 product’ means any decision, analysis, study, or
8 other documented result of an evaluation or deci-
9 sionmaking process that is carried out during trans-
10 portation planning.

11 “(4) PROJECT.—The term ‘project’ has the
12 meaning given the term in section 139.

13 “(5) PROJECT SPONSOR.—The term ‘project
14 sponsor’ has the meaning given the term in section
15 139.

16 “(b) PURPOSE AND INTENT.—The purpose of this
17 section is to establish the authority, and provide proce-
18 dures, for achieving integrated planning and environ-
19 mental review processes—

20 “(1) to enable statewide and metropolitan plan-
21 ning processes to more effectively serve as the foun-
22 dation for highway and transit project decisions;

23 “(2) to foster better decisionmaking;

24 “(3) to reduce duplicative work;

1 “(4) to avoid delays in carrying out transpor-
2 tation improvements; and

3 “(5) to improve transportation and maintain
4 environmental protections for communities and the
5 United States.

6 “(c) ADOPTION OF PLANNING PRODUCTS FOR USE
7 IN THE ENVIRONMENTAL REVIEW PROCESS.—

8 “(1) IN GENERAL.—Subject to paragraph (3)
9 and notwithstanding any other provision of law, the
10 Secretary of Transportation, in consultation with 1
11 or more lead agencies or project sponsors, may
12 adopt and use any planning product, in whole or in
13 part, in the environmental review process of a trans-
14 portation project or program.

15 “(2) APPLICABILITY.—

16 “(A) IN GENERAL.—Planning decisions
17 that may be adopted pursuant to this section
18 include—

19 “(i) a purpose and goal for the pro-
20 posed action, including whether tolling, pri-
21 vate financial assistance, or other special
22 financial measures are necessary to imple-
23 ment the proposed action;

24 “(ii) the location of the travel cor-
25 ridor;

1 “(iii) the modal choice, including
2 whether to implement corridor or subarea
3 study recommendations to advance dif-
4 ferent modal solutions as separate projects
5 with independent utility;

6 “(iv) the elimination of unreasonable
7 alternatives and the selection of a range of
8 reasonable alternatives for detailed study
9 during the environmental review process;

10 “(v) a basic description of the envi-
11 ronmental setting;

12 “(vi) the methodology to be used in
13 the analysis; and

14 “(vii) the identification of pro-
15 grammatic level mitigation for potential
16 impacts that the Secretary of Transpor-
17 tation, in conjunction with other applicable
18 agencies, determines are most effectively
19 addressed at a regional or national pro-
20 gram level, including—

21 “(I) system-level measures to
22 avoid, minimize, or mitigate impacts
23 of proposed transportation invest-
24 ments on environmental resources;

1 “(II) regional ecosystem needs
2 and opportunities; and

3 “(III) potential mitigation activi-
4 ties, locations, and investments.

5 “(B) PLANNING ANALYSES.—Examples of
6 planning analyses that may be adopted under
7 this section include studies of past, current, or
8 predicted future—

9 “(i) travel demands;

10 “(ii) regional development and growth
11 levels;

12 “(iii) local land use, growth manage-
13 ment, and development patterns;

14 “(iv) population and employment lev-
15 els;

16 “(v) natural and human environ-
17 mental conditions;

18 “(vi) environmental resources and en-
19 vironmentally sensitive areas;

20 “(vii) potential environmental effects,
21 including the identification of resources of
22 concern and potential cumulative effects on
23 those resources, as a result of a statewide
24 or regional cumulative effects assessment;

1 “(viii) mitigation needs for a proposed
2 action or for programmatic level mitigation
3 for potential effects that the Secretary of
4 Transportation determines are most effec-
5 tively addressed at a regional or national
6 program level; and

7 “(ix) safety measures.

8 “(3) CONDITIONS.—The adoption and use of a
9 planning product under this section shall be subject
10 to a determination by the Secretary of Transpor-
11 tation, in consultation with appropriate lead agencies
12 and project sponsors, that—

13 “(A) the planning product has been devel-
14 oped through a planning process carried out
15 pursuant to applicable Federal law (including
16 regulations);

17 “(B) the planning process includes broad
18 multidisciplinary consideration of systems-level
19 or corridor-wide transportation needs and an
20 analysis of potential effects;

21 “(C) during the planning process—

22 “(i) notice of the proposed planning
23 product and planning process has been
24 provided through publication or other
25 means to—

1 “(I) each Federal, State, local,
2 and tribal government that may have
3 an interest in the proposed project or
4 program; and

5 “(II) members of the general
6 public; and

7 “(ii) the entities described in clause
8 (i)(I) have been provided an opportunity to
9 participate in the planning process;

10 “(D) prior to determining the scope of the
11 environmental review process, each lead agency
12 has made documentation relating to the plan-
13 ning product available to the entities described
14 in subparagraph (C)(i)(I);

15 “(E) no significant new information or new
16 circumstance exists that has a reasonable likeli-
17 hood of affecting the continued validity of the
18 planning product;

19 “(F) the planning product—

20 “(i) has a rational basis;

21 “(ii) is based on reliable and reason-
22 ably current data; and

23 “(iii) in the case of an analysis, is
24 based on reasonable and scientifically ac-
25 ceptable methodologies;

1 “(G) the planning product is documented
2 in sufficient detail to support the decision or re-
3 sults of the analysis and to meet any require-
4 ments for use of the information in the environ-
5 mental review process; and

6 “(H) the planning product is appropriate
7 for adoption and use in the environmental re-
8 view process for the project or program.

9 “(4) EFFECT OF ADOPTION.—

10 “(A) IN GENERAL.—Notwithstanding any
11 other law, any planning product adopted by the
12 Secretary of Transportation under this section
13 shall not be reconsidered or subject to addi-
14 tional interagency consultation while the envi-
15 ronmental review process for a project or pro-
16 gram is being carried out unless the Secretary
17 of Transportation, in consultation with applica-
18 ble lead agencies and project sponsors, deter-
19 mines that there is significant new information
20 or new circumstances that affect the continued
21 validity or appropriateness of the adopted plan-
22 ning product.

23 “(B) TRANSFERABILITY.—A planning
24 product adopted by the Secretary of Transpor-
25 tation under this section may be relied on and

1 used by other Federal agencies in carrying out
2 an environmental review of a project or pro-
3 gram.

4 “(d) ADMINISTRATION.—

5 “(1) IN GENERAL.—The authority granted
6 under this section shall be broadly construed and
7 may be applied to any project, class of projects, or
8 program carried out under this title.

9 “(2) APPLICABILITY.—

10 “(A) IN GENERAL.—The environmental re-
11 view process under the National Environmental
12 Policy Act of 1969 (42 U.S.C. 4321 et seq.)
13 shall not apply to any transportation planning
14 process carried out under this title.

15 “(B) SCOPE.—If an environmental review
16 process is commenced as a part of, or concur-
17 rently with, a transportation planning activity
18 under this title, the project shall remain exempt
19 from the applicable provisions of the National
20 Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.).”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 1 of title 23, United States Code, is amended by
24 adding at the end the following:

“Sec. 167. Integration of planning and environmental review”.

1 **SEC. 135. NATIONAL ENVIRONMENTAL POLICY ACT PROC-**
2 **ESS REFORMS.**

3 Section 139 of title 23, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (5), by striking “or chap-
7 ter 53 of title 49”;

8 (B) in paragraph (6), by striking “, public
9 transportation capital project,”;

10 (2) in subsection (c)(3), by striking “or chapter
11 53 of title 49”;

12 (3) by redesignating subsections (f), (g), (h),
13 (i), (j), (k), and (l) as subsections (g), (h), (i), (k),
14 (l), (m), and (n), respectively;

15 (4) by inserting after subsection (e) the fol-
16 lowing:

17 “(f) SCOPING.—

18 “(1) IN GENERAL.—The lead agency shall limit
19 the scope of documents prepared under the National
20 Environmental Policy Act of 1969 (42 U.S.C. 4321
21 et seq.) to the relevant and important environmental
22 issues directly relating to decisions with respect to
23 the proposed action.

24 “(2) DECISION.—The Secretary shall determine
25 the relevant and important issues described in para-

1 graph (1) to be analyzed after considering informa-
2 tion in the scoping process.

3 “(3) RECONSIDERATION.—The determination of
4 the Secretary regarding the relevant and important
5 issues to be analyzed is subject to reconsideration
6 only if significant new circumstances or information
7 arise that bear on the proposal or the impacts of the
8 proposal.”;

9 (5) in subsection (g)(4) (as redesignated by
10 paragraph (3))—

11 (A) in subparagraph (B)—

12 (i) by striking “Following participa-
13 tion” and inserting the following:

14 “(i) IN GENERAL.—Following partici-
15 pation”; and

16 (ii) by adding at the end the fol-
17 lowing:

18 “(ii) BASIS FOR SELECTION.—The se-
19 lection of reasonable alternatives shall be
20 based upon—

21 “(I) the likely ability of the alter-
22 natives to satisfy the transportation
23 elements of the purpose and need for
24 the project;

1 “(II) the likely requirements of
2 other Federal environmental statutes;

3 “(III) costs;

4 “(IV) the needs of affected local
5 governments;

6 “(V) whether the alternative is
7 substantially similar to other alter-
8 natives selected for detailed study;
9 and

10 “(VI) other circumstances, dis-
11 cussed in the scoping process, that the
12 lead agency determines to be relevant
13 to the particular project, on the condi-
14 tion that, after the Secretary makes
15 the determination under subsection (f)
16 relating to scoping, additional reason-
17 able alternatives may be selected for
18 analysis only if the lead agency deter-
19 mines that significant new informa-
20 tion justifies expansion of the range of
21 reasonable alternatives selected for
22 analysis.”;

23 (B) in subparagraph (C)—

24 (i) by striking “The lead agency” and
25 inserting the following:

1 “(i) IN GENERAL.—The lead agency”;

2 (ii) in clause (i) (as designated by
3 clause (i)), by striking “at appropriate
4 times during the study process” and in-
5 serting “during scoping or at such other
6 time during project development as the
7 lead agency determines to be appro-
8 priate,”; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(ii) RECONSIDERATION.—A decision
12 described in clause (i) may be reconsidered
13 at any time the lead agency determines the
14 reconsideration to be appropriate.”; and

15 (C) in subparagraph (D), by striking “At
16 the discretion of the lead agency” and inserting
17 the following:

18 “(i) IN GENERAL.—A preferred alter-
19 native may be identified at any time after
20 initiation of the scoping process.

21 “(ii) IDENTIFICATION OF PREFERRED
22 ALTERNATIVE.—The draft environmental
23 impact statement shall identify the pre-
24 ferred alternative, if any, for a project.

1 “(iii) FURTHER DEVELOPMENT.—At
2 the discretion of the lead agency”;

3 (6) in subsection (h) (as so redesignated)—

4 (A) by striking paragraph (3); and

5 (B) by redesignating paragraph (4) as
6 paragraph (3);

7 (7) in subsection (i) (as so redesignated), by
8 striking paragraph (4) and inserting the following:

9 “(4) ISSUE RESOLUTION.—

10 “(A) MEETING OF PARTICIPATING AGEN-
11 CIES.—

12 “(i) IN GENERAL.—On the request of
13 a Federal agency of jurisdiction, project
14 sponsor, or the Governor of a State in
15 which the project is located, the lead agen-
16 cy shall promptly convene a meeting with
17 the relevant participating agencies, the
18 project sponsor, and the Governor (if the
19 meeting is requested by the Governor) to
20 resolve issues that could delay completion
21 of the environmental review process or
22 could result in denial of any approvals re-
23 quired for the project under applicable
24 laws, including issue resolution relating to
25 applications for project permits, licenses,

1 or other approvals referred to in paragraph
2 (5).

3 “(ii) MEETINGS CONVENED BY LEAD
4 AGENCY.—The lead agency may convene
5 an issue resolution meeting under this sub-
6 section with the participating agencies and
7 project sponsor at any time the lead agen-
8 cy determines a meeting to be appropriate.

9 “(iii) TIMING.—A meeting convened
10 under this subsection at the request of a
11 Federal agency of jurisdiction, the project
12 sponsor, or the Governor shall be held not
13 later than 14 days after the date of receipt
14 of the request unless the lead agency deter-
15 mines there is just cause to extend the
16 time period for a meeting.

17 “(B) ELEVATION IF RESOLUTION IS NOT
18 ACHIEVED.—

19 “(i) IN GENERAL.—If a resolution is
20 not achieved by the date that is 30 days
21 after the later of the date of a meeting de-
22 scribed in subparagraph (A) and the date
23 of a determination by the lead agency that
24 all information necessary to resolve the
25 issue has been obtained, the Secretary—

1 “(I) may convene an issue resolu-
2 tion meeting of the lead agency, the
3 heads of the relevant participating
4 agencies, the project sponsor, and the
5 Governor (if the initial issue resolu-
6 tion meeting is requested by the Gov-
7 ernor) to resolve the issues; and

8 “(II) in the case of a Federal
9 agency of jurisdiction that has not
10 made a decision within the time pe-
11 riod described in subsection (h)(3)(A),
12 shall convene an issue resolution
13 meeting to resolve the issues.

14 “(ii) TIMING.—A meeting convened by
15 the Secretary under this subparagraph
16 shall be held not later than 30 days after
17 the end of the 30-day period described in
18 clause (i) for resolution of issues following
19 the date of a meeting described in sub-
20 paragraph (A).

21 “(iii) NOTIFICATION.—The Secretary
22 shall notify the Committee on Environment
23 and Public Works of the Senate, the Com-
24 mittee on Transportation and Infrastruc-
25 ture of the House of Representatives, and

1 the Council on Environmental Quality that
2 a meeting is to be convened under this
3 paragraph.

4 “(5) DEADLINES FOR DECISIONS UNDER
5 OTHER LAWS.—Notwithstanding any other provision
6 of law (including a regulation)—

7 “(A) subject to subparagraph (B), a deci-
8 sion relating to a transportation project under
9 any Federal law (including a regulation and any
10 issuance or denial of a permit, license, or other
11 approval) shall be made by the Federal agency
12 of jurisdiction by the later of—

13 “(i) the date that is 180 days after
14 the date on which the Federal lead agency
15 issues a decision on the project under the
16 National Environmental Policy Act of
17 1969 (42 U.S.C. 4321 et seq.) and (if ap-
18 plicable) section 138 of this title; and

19 “(ii) the date that is 180 days after
20 the date on which an application is sub-
21 mitted for the permit, license, or approval;

22 “(B) the Secretary may extend the time
23 for a decision under subparagraph (A) for just
24 cause;

1 “(C) the application for a project permit,
2 license, or other approval shall be approved by
3 operation of law without further action by the
4 Federal agency of jurisdiction if—

5 “(i) within the time for a decision
6 under subparagraph (A), the Federal agen-
7 cy of jurisdiction has not issued a final de-
8 cision or obtained concurrence to delay de-
9 cision by the project sponsor; or

10 “(ii) the Federal agency has not
11 issued a final decision within 30 days, or
12 such longer time as the Secretary may es-
13 tablish for just cause, after the conclusion
14 of a meeting convened by the Secretary
15 pursuant to paragraph (4)(B);

16 “(D) a permit, license, or other approval
17 approved pursuant to this subsection shall not
18 be subject to judicial review; and

19 “(E) the Secretary may issue a written
20 finding verifying the approval of an application,
21 as submitted to the Federal agency of jurisdic-
22 tion, in accordance with this subsection.”;

23 (8) by inserting after subsection (i) (as so re-
24 designated) the following:

1 “(j) CONSOLIDATED STATEMENTS AND DECI-
2 SIONS.—

3 “(1) IN GENERAL.—In the event that a pre-
4 ferred alternative is identified in the draft environ-
5 mental impact statement, and notwithstanding any
6 other provision of law or regulation, the Secretary
7 must, to the maximum extent practicable combine a
8 final environmental impact statement and a record
9 of decision into a single document following any pub-
10 lic hearings required by section 128 of this title as
11 long as, at least 30 days prior to the issuance of the
12 combined final environmental impact statement and
13 record of decision, the lead agency gives notice to
14 the agencies participating in the environmental re-
15 view process and the public of the proposed decision
16 of the lead agency.

17 “(2) NOTICE CONTENT.—The notice described
18 in paragraph (1) shall include—

19 “(A) a brief summary description of the
20 proposed decision, including the anticipated se-
21 lected alternative and any mitigation commit-
22 ments that will be required under the decision;
23 and

24 “(B) a deadline of not less than 30 days
25 after the date on which the participating agency

1 receives the notice for any predecisional referral
2 under part 1504 of title 40, Code of Federal
3 Regulations (or successor regulations).

4 “(3) MANNER OF NOTICE.—

5 “(A) IN GENERAL.—The lead agency may
6 give the required notice to agencies by mail, e-
7 mail, fax, or other commercially acceptable
8 means that permit confirmation of delivery.

9 “(B) PUBLIC NOTICE.—The lead agency
10 may give the required public notice by means of
11 publication of the notice in a newspaper of
12 statewide circulation, in the Federal Register,
13 or by posting the notice on the website of the
14 project.”;

15 (9) in subsection (l)(1) (as so redesignated)—

16 (A) by striking “or chapter 53 of title 49”;
17 and

18 (B) by striking “or such chapter 53”;

19 (10) in subsection (m) (as so redesignated), by
20 striking paragraph (2) and inserting the following:

21 “(2) RELATIONSHIP TO OTHER STATUTES.—If
22 any provision of the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4321 et seq.), any regula-
24 tion promulgated under that Act, or any other Fed-
25 eral environmental statute, conflicts with this sec-

1 tion, the procedures in this section shall take prece-
2 dence.”; and

3 (11) in subsection (n)(1) (as so redesignated),
4 by striking “or public transportation capital”.

5 **SEC. 136. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION**
6 **ACTIVITIES PRIOR TO COMPLETION OF ENVI-**
7 **RONMENTAL REVIEW PROCESS.**

8 (a) ACQUISITION OF REAL PROPERTY.—Notwith-
9 standing any other provision of law, the acquisition of real
10 property in anticipation of a federally assisted or federally
11 approved surface transportation project that may use the
12 real property is not prohibited prior to the date on which
13 the environmental review process under the National Envi-
14 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
15 for the surface transportation project is completed, subject
16 to the conditions that the acquisition does not have an
17 adverse environmental effect or limit the choice of reason-
18 able alternatives for the proposed project.

19 (b) EARLY ACQUISITION OF REAL PROPERTY INTER-
20 ESTS FOR HIGHWAYS.—Section 108 of title 23, United
21 States Code, is amended—

22 (1) in the section heading, by inserting “**IN-**
23 **TERESTS**” after “**REAL PROPERTY**”;

24 (2) in subsection (a), by inserting “interests”
25 after “real property” each place it appears;

1 (3) in subsection (b), by striking “rights-of-
2 way” and inserting “real property interests”;

3 (4) in subsection (c)—

4 (A) in the subsection heading, by striking
5 “RIGHTS-OF-WAY” and inserting “REAL PROP-
6 ERTY INTERESTS”;

7 (B) in paragraph (1)—

8 (i) in the matter preceding subpara-
9 graph (A), by inserting “at any time” after
10 “may be used”; and

11 (ii) in subparagraph (A)—

12 (I) by striking “acquisition of
13 rights-of-way” and inserting “acquisi-
14 tion of real property interests”; and

15 (II) by striking “, if the rights-
16 of-way are subsequently incorporated
17 into a project eligible for surface
18 transportation program funds”; and

19 (C) by striking paragraph (2) and insert-
20 ing the following:

21 “(2) TERMS AND CONDITIONS.—

22 “(A) IN GENERAL.—Subject to the other
23 provisions in this section, a public authority
24 may acquire real property that may be used for
25 a project prior to the date on which the envi-

1 ronmental review process under the National
2 Environmental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.) for the project is completed.

4 “(B) CONDITIONS.—An acquisition de-
5 scribed in subparagraph (A) may be authorized
6 by project agreement and shall be eligible for
7 Federal-aid reimbursement as a project expense
8 if the Secretary finds that the acquisition—

9 “(i) does not cause any significant ad-
10 verse environmental impact;

11 “(ii) does not limit the choice of rea-
12 sonable alternatives for the project or oth-
13 erwise influence the decision of the Sec-
14 retary on any approval required for the
15 project;

16 “(iii) is consistent with the State
17 transportation planning process under sec-
18 tion 135;

19 “(iv) complies with other applicable
20 Federal laws (including regulations);

21 “(v) is carried out through negotia-
22 tion, without the threat of condemnation;
23 and

24 “(vi) together with any relocation as-
25 sistance provided, complies with—

1 “(I) the Uniform Relocation As-
2 sistance and Real Property Acquisi-
3 tion Policies Act of 1970 (42 U.S.C.
4 4601 et seq.); and

5 “(II) title VI of the Civil Rights
6 Act of 1964 (42 U.S.C. 2000d et
7 seq.).

8 “(C) DEVELOPMENT.—Real property ac-
9 quired under this subsection may not be devel-
10 oped in anticipation of the project until the date
11 on which all required environmental reviews for
12 the project have been completed.

13 “(D) REIMBURSEMENT.—If Federal-aid
14 reimbursement is made for early acquired real
15 property under this subsection and the property
16 is not incorporated into a project eligible for
17 surface transportation funds in the time period
18 described in subsection (a)(2), the Secretary
19 shall offset the amount so reimbursed against
20 funds apportioned to the State.

21 “(E) OTHER CONDITIONS.—The Secretary
22 may establish such other conditions or restric-
23 tions on the acquisition of real property under
24 this section as the Secretary determines to be
25 necessary.”.

1 **SEC. 137. SURFACE TRANSPORTATION PROJECT DELIVERY**
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 327 of title 23, United
4 States Code, is amended—

5 (1) in the section heading, by striking
6 “**PILOT**”; and

7 (2) by striking “pilot” each place it appears.

8 (b) ESTABLISHMENT.—Section 327(a)(2) of title 23,
9 United States Code, is amended—

10 (1) in subparagraph (B), by striking clause (ii)
11 and inserting the following:

12 “(ii) the Secretary may not assign any
13 responsibility imposed on the Secretary by
14 section 134 or 135;”; and

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

16 “(F) SOVEREIGN IMMUNITY.—By exe-
17 cuting an agreement with the Secretary and as-
18 suming the responsibilities of the Secretary
19 under this section, a State—

20 “(i) waives the sovereign immunity of
21 the State under the Eleventh Amendment
22 of the Constitution of the United States
23 from any civil action brought in a Federal
24 court; and

25 “(ii) expressly consents to accept the
26 jurisdiction of the Federal courts with re-

1 spect to any action relating to the compli-
2 ance, discharge, and enforcement of any
3 responsibility of the Secretary that the
4 State assumes.”.

5 (c) STATE PARTICIPATION.—Section 327(b) of title
6 23, United States Code, is amended—

7 (1) by striking paragraph (1);

8 (2) by redesignating paragraphs (2) through
9 (5) as paragraphs (1) through (4), respectively; and

10 (3) in paragraph (3)(A) (as redesignated by
11 paragraph (2)), by striking “paragraph (2)” and in-
12 serting “paragraph (1)”.

13 (d) WRITTEN AGREEMENT.—Section 327(c) of title
14 23, United States Code, is amended—

15 (1) in paragraph (3), by striking the period at
16 the end and inserting a semicolon; and

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

18 “(4) require the State to provide to the Sec-
19 retary any information the Secretary determines to
20 be necessary to ensure that the State is adequately
21 carrying out the responsibilities assigned to the
22 State, including periodic written reports; and

23 “(5) require the Secretary—

1 “(A) after a period of 5 years, to evaluate
2 the ability of the State to carry out the respon-
3 sibilities assumed under this section;

4 “(B) if the Secretary determines that the
5 State is not ready to effectively carry out the
6 responsibilities the State has assumed, to re-
7 evaluate the readiness of the State by not later
8 than 3 years after the initial evaluation under
9 subparagraph (A) and every 3 years thereafter,
10 until the Secretary determines that the State is
11 ready to assume those responsibilities on a per-
12 manent basis; and

13 “(C) after the Secretary has determined
14 under subparagraph (A) or (B) that the State
15 is ready to permanently assume the responsibil-
16 ities under this section, to notify the State—

17 “(i) of that determination; and

18 “(ii) that no further evaluations shall
19 be required.”.

20 (e) AUDITS.—Section 327 of title 23, United States
21 Code is amended—

22 (1) by striking subsection (g); and

23 (2) by redesignating subsections (h) and (i) as
24 (g) and (h), respectively.

1 (f) TERMINATION.—Section 327(h) of title 23,
2 United States Code (as redesignated by subsection (e)(2)),
3 is amended—

4 (1) by striking paragraph (1);

5 (2) by redesignating paragraph (2) as para-
6 graph (1); and

7 (3) by inserting after paragraph (1) (as redesign-
8 ated by paragraph (2)) the following:

9 “(2) TERMINATION BY STATE.—Subject to such
10 terms and conditions as the Secretary may specify,
11 the State may terminate the participation of the
12 State in the program at any time by providing notice
13 of the termination to the Secretary not later than 90
14 days before the State intends to terminate that par-
15 ticipation.”.

16 (g) CONFORMING AMENDMENT.—The analysis for
17 chapter 3 of title 23, United States Code, is amended by
18 striking the item relating to section 327 and inserting the
19 following:

“327. Surface transportation project delivery program”.

20 **SEC. 138. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
21 **CATEGORICAL EXCLUSIONS.**

22 Section 326(a) of title 23, United States Code, is
23 amended by adding at the end the following:

24 “(4) STATE ASSUMPTION OF RESPONSIBILITIES
25 FOR CATEGORICAL EXCLUSIONS.—

1 “(A) SOVEREIGN IMMUNITY.—By exe-
2 cuting a memorandum of understanding with
3 the Secretary under subsection (c) and assum-
4 ing the responsibilities of the Secretary under
5 this section, a State—

6 “(i) waives the sovereign immunity of
7 the State under the Eleventh Amendment
8 of the Constitution of the United States
9 from any civil action brought in a Federal
10 court; and

11 “(ii) expressly consents to accept the
12 jurisdiction of the Federal courts with re-
13 spect to any action relating to the compli-
14 ance, discharge, and enforcement of any
15 responsibility of the Secretary that the
16 State assumes.

17 “(B) TERMINATION BY STATE.—Subject to
18 such terms and conditions as the Secretary may
19 specify, the State may terminate the participa-
20 tion of the State in the program at any time by
21 providing notice of the termination to the Sec-
22 retary not later than 90 days before the State
23 intends to terminate that participation.”.

1 **SEC. 139. EMERGENCY WAIVER.**

2 Any road, highway, or bridge that is in operation for
3 fewer than 30 years or that is under construction, and
4 that is damaged by major disaster or emergency declared
5 by the Governor of the State and concurred in by the Sec-
6 retary, or declared by the President pursuant to the Rob-
7 ert T. Stafford Disaster Relief and Emergency Assistance
8 Act (42 U.S.C. 5121)—

9 (1) may be reconstructed in the same location
10 with the same capacity, dimensions, and design as
11 before the disaster or emergency; and

12 (2) shall be exempt from any environmental re-
13 views, approvals, licensing, and permit requirements
14 under—

15 (A) the National Historic Preservation Act
16 (16 U.S.C. 470 et seq.);

17 (B) the Migratory Bird Treaty Act (16
18 U.S.C. 703 et seq.);

19 (C) the Fish and Wildlife Coordination Act
20 (16 U.S.C. 661 et seq.);

21 (D) the Wild and Scenic Rivers Act (16
22 U.S.C. 1271 et seq.);

23 (E) the Endangered Species Act of 1973
24 (16 U.S.C. 1531 et seq.), except when the re-
25 construction occurs in designated critical habi-
26 tat for threatened and endangered species;

1 (F) sections 402 and 404 of the Federal
2 Water Pollution Control Act (33 U.S.C. 1342,
3 1344);

4 (G) the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4321 et seq.);

6 (H) Executive Order 11990 (42 U.S.C.
7 4321 note; relating to the protection of wet-
8 land); and

9 (I) any Federal law (including regulations)
10 requiring no net loss of wetland.

11 **SEC. 140. CEMENT SECTOR REGULATORY RELIEF.**

12 (a) ESTABLISHMENT OF STANDARDS.—In lieu of the
13 rules specified in subsection (b), and notwithstanding the
14 date by which those rules would otherwise be required to
15 be promulgated, the Administrator of the Environmental
16 Protection Agency (referred to in this section as the “Ad-
17 ministrator”) shall—

18 (1) propose regulations for the Portland cement
19 manufacturing industry and Portland cement plants
20 that are subject to any of the rules specified in sub-
21 section (b) that—

22 (A) establish maximum achievable control
23 technology standards, performance standards,
24 and other requirements under sections 112 and

1 129, as applicable, of the Clean Air Act (42
2 U.S.C. 7412, 7429); and

3 (B) identify nonhazardous secondary mate-
4 rials that, when used as fuels in combustion
5 units of that industry and those plants, qualify
6 as solid waste under the Solid Waste Disposal
7 Act (42 U.S.C. 6901 et seq.) for purposes of
8 determining the extent to which the combustion
9 units are required to meet the emission stand-
10 ards under section 112 or 129 of the Clean Air
11 Act (42 U.S.C. 7412, 7429); and

12 (2) promulgate final versions of those regula-
13 tions by not later than—

14 (A) the date that is 15 months after the
15 date of enactment of this Act; or

16 (B) such later date as may be determined
17 by the Administrator.

18 (b) STAY OF EARLIER RULES.—

19 (1) PORTLAND-SPECIFIC RULES.—The final
20 rule entitled “National Emission Standards for Haz-
21 ardous Air Pollutants from the Portland Cement
22 Manufacturing Industry and Standards of Perform-
23 ance for Portland Cement Plants” (75 Fed. Reg.
24 54970 (September 9, 2010)) shall be—

25 (A) of no force or effect;

1 (B) treated as though the rule had never
2 taken effect; and

3 (C) replaced in accordance with subsection
4 (a).

5 (2) OTHER RULES.—

6 (A) IN GENERAL.—The final rules de-
7 scribed in subparagraph (B), to the extent that
8 those rules apply to the Portland cement manu-
9 facturing industry and Portland cement plants
10 shall be—

11 (i) of no force or effect;

12 (ii) treated as though the rules had
13 never taken effect; and

14 (iii) replaced in accordance with sub-
15 section (a).

16 (B) DESCRIPTION OF RULES.—The final
17 rules described in this subparagraph are—

18 (i) the final rule entitled “Standards
19 of Performance for New Stationary
20 Sources and Emission Guidelines for Ex-
21 isting Sources: Commercial and Industrial
22 Solid Waste Incineration Units” (76 Fed.
23 Reg. 15704 (March 21, 2011)); and

24 (ii) the final rule entitled “Identifica-
25 tion of Non-Hazardous Secondary Mate-

1 rials That Are Solid Waste” (76 Fed. Reg.
2 15456 (March 21, 2011)).

3 (c) ESTABLISHMENT OF COMPLIANCE DATES.—For
4 each regulation promulgated pursuant to subsection (a),
5 the Administrator—

6 (1) shall establish a date for compliance with
7 standards and requirements under the regulation
8 that is, notwithstanding any other provision of law,
9 not earlier than 5 years after the effective date of
10 the regulation; and

11 (2) in proposing a date for that compliance,
12 shall take into consideration—

13 (A) the costs of achieving emission reduc-
14 tions;

15 (B) any nonair quality health and environ-
16 mental impacts and energy requirements of the
17 standards and requirements;

18 (C) the feasibility of implementing the
19 standards and requirements, including the time
20 necessary—

21 (i) to obtain necessary permit approv-
22 als; and

23 (ii) to procure, install, and test con-
24 trol equipment;

1 (D) the availability of equipment, sup-
2 pliers, and labor, given the requirements of the
3 regulation and other proposed or finalized regu-
4 lations of the Administrator; and

5 (E) potential net employment impacts.

6 (d) NEW SOURCES.—The date on which the Adminis-
7 trator proposes a regulation pursuant to subsection (a)(1)
8 establishing an emission standard under section 112 or
9 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
10 be treated as the date on which the Administrator first
11 proposes such a regulation for purposes of applying—

12 (1) the definition of the term “new source”
13 under section 112(a)(4) of that Act (42 U.S.C.
14 7412(a)(4)); or

15 (2) the definition of the term “new solid waste
16 incineration unit” under section 129(g)(2) of that
17 Act (42 U.S.C. 7429(g)(2)).

18 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion restricts or otherwise affects paragraphs (3)(B) and
20 (4) of section 112(i) of the Clean Air Act (42 U.S.C.
21 7412(i)).

22 (f) ENERGY RECOVERY AND CONSERVATION.—Not-
23 withstanding any other provision of law, and to ensure the
24 recovery and conservation of energy consistent with the
25 Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), in pro-

1 promulgating regulations under subsection (a) addressing the
2 subject matter of the rules specified in subsection (b)(2),
3 the Administrator shall—

4 (1) adopt the definitions of the terms “commer-
5 cial and industrial solid waste incineration unit”,
6 “commercial and industrial waste”, and “contained
7 gaseous material” in the rule entitled “Standards
8 for Performance of New Stationary Sources and
9 Emission Guidelines for Existing Sources: Commer-
10 cial and Industrial Solid Waste Incineration Units”
11 (65 Fed. Reg. 75338 (December 1, 2000)); and

12 (2) identify nonhazardous secondary material to
13 be solid waste (as defined in section 1004 of the
14 Solid Waste Disposal Act (42 U.S.C. 6903)) only
15 if—

16 (A) the material meets that definition of
17 commercial and industrial waste; or

18 (B) if the material is a gas, the material
19 meets that definition of contained gaseous ma-
20 terial.

21 (g) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
22 PRACTICE.—In promulgating regulations under sub-
23 section (a), the Administrator shall ensure, to the max-
24 imum extent practicable, that emission standards for ex-
25 isting and new sources established under section 112 or

1 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as ap-
2 plicable, can be met under actual operating conditions con-
3 sistently and concurrently with emission standards for all
4 other air pollutants covered by regulations applicable to
5 the source category, taking into account—

6 (1) variability in actual source performance;

7 (2) source design;

8 (3) fuels;

9 (4) inputs;

10 (5) controls;

11 (6) ability to measure the pollutant emissions;

12 and

13 (7) operating conditions.

14 (h) REGULATORY ALTERNATIVES.—For each regula-
15 tion promulgated under subsection (a), from among the
16 range of regulatory alternatives authorized under the
17 Clean Air Act (42 U.S.C. 7401 et seq.), including work
18 practice standards under section 112(h) of that Act (42
19 U.S.C. 7412(h)), the Administrator shall impose the least
20 burdensome, consistent with the purposes of that Act and
21 Executive Order 13563 (76 Fed. Reg. 3821 (January 21,
22 2011)).

TITLE II—PUBLIC TRANSPORTATION

SEC. 201. PUBLIC TRANSPORTATION.

(a) EXTENSION FOR PUBLIC TRANSPORTATION.—

Except as otherwise provided in this section, requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under title III of the SAFETEA-LU (Public Law 109–59; 119 Stat. 2022), title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2087), title III of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 338), and chapter 53 of title 49, United States Code, which would otherwise expire on or cease to apply after March 31, 2012, are incorporated by reference and shall continue in effect until September 30, 2013.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) **MASS TRANSIT ACCOUNT.**—There shall be available from the Mass Transit Account of the Highway Trust Fund for each of fiscal years 2012 and 2013, an amount equal to the total amount authorized to be appropriated out of the Mass Transit Account of the Highway Trust Fund for programs, projects, and activities for fiscal year 2011 under

1 the SAFETEA–LU (Public Law 109–59) and under
2 chapter 53 of title 49, United States Code.

3 (2) GENERAL FUND.—There is authorized to be
4 appropriated from the General Fund of the Treasury
5 for each of fiscal years 2012 and 2013, an amount
6 equal to the total amount authorized to be appro-
7 priated from the General Fund of the Treasury for
8 programs, projects, and activities for fiscal year
9 2011 under the SAFETEA–LU (Public Law 109–
10 59) and under chapter 53 of title 49, United States
11 Code.

12 (c) CONTRACT AUTHORITY.—Funds made available
13 under this section from the Mass Transit Account of the
14 Highway Trust Fund shall be available for obligation in
15 the same manner as provided for under section 5338(f)(1)
16 of title 49, United States Code.

17 (d) USE OF FUNDS.—Funds authorized to be appro-
18 priated or made available for obligation and expended
19 under this section shall be distributed, administered, lim-
20 ited, and made available for obligation in the same manner
21 and at the same rate as funds authorized to be appro-
22 priated or made available for fiscal year 2011 to carry out
23 programs, projects, activities, eligibilities, and require-
24 ments under the SAFETEA–LU (Public Law 109–59),
25 title III of the Intermodal Surface Transportation Effi-

1 ciency Act of 1991 (Public Law 102–240; 105 Stat.
2 2087), title III of the Transportation Equity Act for the
3 21st Century (Public Law 105–178; 112 Stat. 338), and
4 chapter 53 of title 49, United States Code, including sec-
5 tion 5338(f)(1) of such title 49.

6 (e) DISTRIBUTION OF FUNDS UNDER TITLE III OF
7 SAFETEA-LU.—Funds authorized to be appropriated or
8 made available for programs continued under this section
9 shall be distributed to those programs in the same propor-
10 tion as funds were allocated for those programs for fiscal
11 year 2011, except that any designations for specific activi-
12 ties in sections 3044 and 3046 of the SAFETEA-LU
13 shall not be required to be continued.

14 (f) DISADVANTAGED BUSINESS ENTERPRISES.—Sec-
15 tion 1101(b) of the SAFETEA-LU (23 U.S.C. 101 note)
16 shall apply with respect to any program under title III
17 of the SAFETEA-LU (Public Law 109–59) or chapter
18 53 of title 49, United States Code, that receives funds au-
19 thorized to be appropriated or made available for obliga-
20 tion and expended under this section.

21 (g) OBLIGATION CEILING.—Section 3040 of the
22 SAFETEA-LU (Public Law 109–59; 119 Stat. 1639) is
23 amended by striking paragraph (8) and inserting the fol-
24 lowing

1 “(8) for each of fiscal years 2012 and 2013, an
2 amount equal to \$10,507,752,000, of which not
3 more than \$8,360,565,000 shall be from the Mass
4 Transit Account.”.

5 **TITLE III—EXTENSION OF SUR-**
6 **FACE TRANSPORTATION PRO-**
7 **GRAMS**

8 **SEC. 301. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**
9 **SAFETY ADMINISTRATION HIGHWAY SAFETY**
10 **PROGRAMS.**

11 (a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Sec-
12 tion 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is
13 amended by striking “and \$117,500,000 for the period be-
14 ginning on October 1, 2011, and ending on March 31,
15 2012.” and inserting “\$235,000,000 for fiscal year 2012,
16 and \$235,000,000 for fiscal year 2013.”.

17 (b) HIGHWAY SAFETY RESEARCH AND DEVELOP-
18 MENT.—Section 2001(a)(2) of SAFETEA-LU (119 Stat.
19 1519) is amended by striking “and \$54,122,000 for the
20 period beginning on October 1, 2011, and ending on
21 March 31, 2012.” and inserting “\$108,244,000 for fiscal
22 year 2012, and \$108,244,000 for fiscal year 2013.”.

23 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—

24 (1) EXTENSION OF PROGRAM.—Section 405(a)
25 of title 23, United States Code, is amended—

1 (A) in paragraph (3) by striking “9” and
2 inserting “10”; and

3 (B) in paragraph (4)(C) by striking “fifth
4 through ninth” and inserting “fifth through
5 tenth”.

6 (2) AUTHORIZATION OF APPROPRIATIONS.—
7 Section 2001(a)(3) of SAFETEA-LU (119 Stat.
8 1519) is amended by striking “and \$12,500,000 for
9 the period beginning on October 1, 2011, and ending
10 on March 31, 2012.” and inserting “\$25,000,000
11 for fiscal year 2012, and \$25,000,000 for fiscal year
12 2013.”.

13 (d) SAFETY BELT PERFORMANCE GRANTS.—Section
14 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amend-
15 ed by striking “and \$24,250,000 for the period beginning
16 on October 1, 2011, and ending on March 31, 2012.” and
17 inserting “\$48,500,000 for fiscal year 2012, and
18 \$48,500,000 for fiscal year 2013.”.

19 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
20 IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA-LU
21 (119 Stat. 1519) is amended by striking “and
22 \$17,250,000 for the period beginning on October 1, 2011,
23 and ending on March 31, 2012.” and inserting
24 “\$34,500,000 for fiscal year 2012, and \$34,500,000 for
25 fiscal year 2013.”.

1 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
2 MEASURES INCENTIVE GRANT PROGRAM.—

3 (1) EXTENSION OF PROGRAM.—Section 410 of
4 title 23, United States Code, is amended—

5 (A) in subsection (a)(3)(C), by striking
6 “eleventh” and inserting “12th”; and

7 (B) in subsection (b)(2)(C), by striking
8 “2012” and inserting “2013”.

9 (2) AUTHORIZATION OF APPROPRIATIONS.—
10 Section 2001(a)(6) of SAFETEA-LU (119 Stat.
11 1519) is amended by striking “and \$69,500,000 for
12 the period beginning on October 1, 2011, and ending
13 on March 31, 2012.” and inserting “\$139,000,000
14 for fiscal year 2012, and \$139,000,000 for fiscal
15 year 2013.”.

16 (g) NATIONAL DRIVER REGISTER.—Section
17 2001(a)(7) of SAFETEA-LU (119 Stat. 1520) is amend-
18 ed by striking “and \$2,058,000 for the period beginning
19 on October 1, 2011, and ending on March 31, 2012.” and
20 inserting “\$4,116,000 for fiscal year 2012, and
21 \$4,116,000 for fiscal year 2013.”.

22 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

23 (1) EXTENSION OF PROGRAM.—Section 2009(a)
24 of SAFETEA-LU (23 U.S.C. 402 note) is amended
25 by striking “2012” and inserting “2013”.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 Section 2001(a)(8) of SAFETEA–LU (119 Stat.
3 1520) is amended by striking “and \$14,500,000 for
4 the period beginning on October 1, 2011, and ending
5 on March 31, 2012.” and inserting “\$29,000,000
6 for fiscal year 2012, and \$29,000,000 for fiscal year
7 2013.”.

8 (i) MOTORCYCLIST SAFETY.—

9 (1) EXTENSION OF PROGRAM.—Section
10 2010(d)(1)(B) of SAFETEA–LU (23 U.S.C. 402
11 note) is amended by striking “sixth, and seventh”
12 and inserting “sixth, seventh, and eighth”.

13 (2) AUTHORIZATION OF APPROPRIATIONS.—

14 Section 2001(a)(9) of SAFETEA–LU (119 Stat.
15 1520) is amended by striking “and \$3,500,000 for
16 the period beginning on October 1, 2011, and ending
17 on March 31, 2012.” and inserting “\$7,000,000 for
18 fiscal year 2012, and \$7,000,000 for fiscal year
19 2013.”.

20 (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFE-
21 TY INCENTIVE GRANTS.—

22 (1) EXTENSION OF PROGRAM.—Section
23 2011(c)(2) of SAFETEA–LU (23 U.S.C. 405 note)
24 is amended by striking “sixth, and seventh fiscal

1 years” and inserting “sixth, seventh, and eighth fis-
2 cal years”.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—
4 Section 2001(a)(10) of SAFETEA-LU (119 Stat.
5 1520) is amended by striking “and \$3,500,000 for
6 the period beginning on October 1, 2011, and ending
7 on March 31, 2012.” and inserting “\$7,000,000 for
8 fiscal year 2012, and \$7,000,000 for fiscal year
9 2013.”.

10 (k) ADMINISTRATIVE EXPENSES.—Section
11 2001(a)(11) of SAFETEA-LU (119 Stat. 1520) is
12 amended by striking “and \$12,664,000 for the period be-
13 ginning on October 1, 2011, and ending on March 31,
14 2012.” and inserting “\$25,328,000 for fiscal year 2012,
15 and \$25,328,000 for fiscal year 2013.”.

16 (l) APPLICABILITY OF TITLE 23.—Section 2001(c) of
17 SAFETEA-LU (119 Stat. 1520) is amended by striking
18 “2012” and inserting “2013”.

19 (m) DRUG-IMPAIRED DRIVING ENFORCEMENT.—
20 Section 2013(f) of SAFETEA-LU (23 U.S.C. 403 note)
21 is amended by striking “2012” and inserting “2013”.

22 (n) OLDER DRIVER SAFETY; LAW ENFORCEMENT
23 TRAINING.—Section 2017 of SAFETEA-LU is amend-
24 ed—

1 (1) in subsection (a)(1) (119 Stat. 1541), by
2 striking “2012” and inserting “2013”; and

3 (2) in subsection (b)(2) (23 U.S.C. 402 note),
4 by striking “2012” and inserting “2013”.

5 **SEC. 302. EXTENSION OF FEDERAL MOTOR CARRIER SAFE-**
6 **TY ADMINISTRATION PROGRAMS.**

7 (a) MOTOR CARRIER SAFETY GRANTS.—Section
8 31104(a) of title 49, United States Code, is amended—

9 (1) in paragraph (7), by striking “and” at the
10 end; and

11 (2) by striking paragraph (8) and inserting the
12 following:

13 “(8) \$212,000,000 for fiscal year 2012; and

14 “(9) \$212,000,000 for fiscal year 2013.”.

15 (b) ADMINISTRATIVE EXPENSES.—Section
16 31104(i)(1) of title 49, United States Code, is amended—

17 (1) in subparagraph (G), by striking “and” at
18 the end; and

19 (2) by striking subparagraph (H) and inserting
20 the following:

21 “(H) \$244,144,000 for fiscal year 2012;

22 and

23 “(I) \$244,144,000 for fiscal year 2013.”.

24 (c) GRANT PROGRAMS.—Section 4101(c) of
25 SAFETEA-LU (119 Stat. 1715) is amended—

1 (1) in paragraph (1), by striking “and
2 \$15,000,000 for the period beginning on October 1,
3 2011, and ending on March 31, 2012.” and insert-
4 ing “and \$30,000,000 for each of fiscal years 2012
5 and 2013.”;

6 (2) in paragraph (2), by striking “2011 and
7 \$16,000,000 for the period beginning on October 1,
8 2011, and ending on March 31, 2012” and inserting
9 “2013”;

10 (3) in paragraph (3), by striking “2011 and
11 \$2,500,000 for the period beginning on October 1,
12 2011, and ending on March 31, 2012” and inserting
13 “2013”;

14 (4) in paragraph (4), by striking “2011 and
15 \$12,500,000 for the period beginning on October 1,
16 2011, and ending on March 31, 2012” and inserting
17 “2013”; and

18 (5) in paragraph (5), by striking “2011 and
19 \$1,500,000 for the period beginning on October 1,
20 2011, and ending on March 31, 2012” and inserting
21 “2013”.

22 (d) HIGH-PRIORITY ACTIVITIES.—Section
23 31104(k)(2) of title 49, United States Code, is amended
24 by striking “2011 and \$7,500,000 for the period begin-

1 ning on October 1, 2011, and ending on March 31, 2012,”
2 and inserting “2013”.

3 (e) NEW ENTRANT AUDITS.—Section
4 31144(g)(5)(B) of title 49, United States Code, is amend-
5 ed by striking “and up to \$14,500,000 for the period be-
6 ginning on October 1, 2011, and ending on March 31,
7 2012,”.

8 (f) OUTREACH AND EDUCATION.—Section 4127(e) of
9 SAFETEA-LU (119 Stat. 1741) is amended by striking
10 “fiscal years 2006” and all that follows through “March
11 31, 2012,” and inserting “fiscal years 2006 through
12 2013”.

13 (g) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-
14 HICLE OPERATORS.—Section 4134(c) of SAFETEA-LU
15 (119 Stat. 1744) is amended by striking “2011 and
16 \$500,000 for the period beginning on October 1, 2011,
17 and ending on March 31, 2012,” and inserting “2013”.

18 (h) MOTOR CARRIER SAFETY ADVISORY COM-
19 MITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat.
20 1748) is amended by striking “March 31, 2012” and in-
21 serting “September 30, 2013”.

22 (i) WORKING GROUP FOR DEVELOPMENT OF PRAC-
23 TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE
24 RELATIONS.—Section 4213(d) of SAFETEA-LU (49
25 U.S.C. 14710 note; 119 Stat. 1759) is amended by strik-

1 ing “March 31, 2012” and inserting “September 30,
2 2013”.

3 **SEC. 303. ADDITIONAL PROGRAMS.**

4 (a) HAZARDOUS MATERIALS RESEARCH
5 PROJECTS.—Section 7131(c) of SAFETEA-LU (119
6 Stat. 1910) is amended by striking “2011 and \$580,000
7 for the period beginning on October 1, 2011, and ending
8 on March 31, 2012,” and inserting “and \$1,160,000 for
9 each of fiscal years 2012 and 2013”.

10 (b) DINGELL-JOHNSON SPORT FISH RESTORATION
11 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
12 toration Act (16 U.S.C. 777c) is amended—

13 (1) in subsection (a), by striking “March 31,
14 2012” and inserting “September 30, 2013,”; and

15 (2) in the first sentence of subsection (b)(1)(A)
16 by striking “2011 and for the period beginning on
17 October 1, 2011, and ending on March 31, 2012,”
18 and inserting “2011, and for each of fiscal years
19 2012 and 2013,”.

1 **TITLE IV—REGULATIONS FROM**
2 **THE EXECUTIVE IN NEED OF**
3 **SCRUTINY**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Regulations From the
6 Executive in Need of Scrutiny Act of 2011” or the
7 “REINS Act”.

8 **SEC. 402. FINDINGS AND PURPOSE.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) Section 1 of article I of the United States
11 Constitution grants all legislative powers to Con-
12 gress.

13 (2) Over time, Congress has excessively dele-
14 gated its constitutional charge while failing to con-
15 duct appropriate oversight and retain accountability
16 for the content of the laws it passes.

17 (3) By requiring a vote in Congress, this title
18 will result in more carefully drafted and detailed leg-
19 islation, an improved regulatory process, and a legis-
20 lative branch that is truly accountable to the people
21 of the United States for the laws imposed upon
22 them.

23 (b) PURPOSE.—The purpose of this title is to in-
24 crease accountability for and transparency in the Federal
25 regulatory process.

1 **SEC. 403. CONGRESSIONAL REVIEW OF AGENCY RULE-**
2 **MAKING.**

3 Chapter 8 of title 5, United States Code, is amended
4 to read as follows:

5 **“CHAPTER 8—CONGRESSIONAL REVIEW**
6 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

7 **“§ 801. Congressional review**

8 “(a)(1)(A) Before a rule may take effect, the Federal
9 agency promulgating such rule shall submit to each House
10 of the Congress and to the Comptroller General a report
11 containing—

12 “(i) a copy of the rule;

13 “(ii) a concise general statement relating to the
14 rule;

15 “(iii) a classification of the rule as a major or
16 nonmajor rule, including an explanation of the clas-
17 sification specifically addressing each criteria for a
18 major rule contained within sections 804(2)(A),
19 804(2)(B), and 804(2)(C);

20 “(iv) a list of any other related regulatory ac-
21 tions intended to implement the same statutory pro-

1 vision or regulatory objective as well as the indi-
2 vidual and aggregate economic effects of those ac-
3 tions; and

4 “(v) the proposed effective date of the rule.

5 “(B) On the date of the submission of the report
6 under subparagraph (A), the Federal agency promulgating
7 the rule shall submit to the Comptroller General and make
8 available to each House of Congress—

9 “(i) a complete copy of the cost-benefit analysis
10 of the rule, if any;

11 “(ii) the agency’s actions pursuant to title 5 of
12 the United States Code, sections 603, 604, 605,
13 607, and 609;

14 “(iii) the agency’s actions pursuant to title 2 of
15 the United States Code, sections 1532, 1533, 1534,
16 and 1535; and

17 “(iv) any other relevant information or require-
18 ments under any other Act and any relevant Execu-
19 tive orders.

20 “(C) Upon receipt of a report submitted under sub-
21 paragraph (A), each House shall provide copies of the re-
22 port to the chairman and ranking member of each stand-
23 ing committee with jurisdiction under the rules of the
24 House of Representatives or the Senate to report a bill

1 to amend the provision of law under which the rule is
2 issued.

3 “(2)(A) The Comptroller General shall provide a re-
4 port on each major rule to the committees of jurisdiction
5 by the end of 15 calendar days after the submission or
6 publication date as provided in section 802(b)(2). The re-
7 port of the Comptroller General shall include an assess-
8 ment of the agency’s compliance with procedural steps re-
9 quired by paragraph (1)(B).

10 “(B) Federal agencies shall cooperate with the Comp-
11 troller General by providing information relevant to the
12 Comptroller General’s report under subparagraph (A).

13 “(3) A major rule relating to a report submitted
14 under paragraph (1) shall take effect upon enactment of
15 a joint resolution of approval described in section 802 or
16 as provided for in the rule following enactment of a joint
17 resolution of approval described in section 802, whichever
18 is later.

19 “(4) A nonmajor rule shall take effect as provided
20 by section 803 after submission to Congress under para-
21 graph (1).

22 “(5) If a joint resolution of approval relating to a
23 major rule is not enacted within the period provided in
24 subsection (b)(2), then a joint resolution of approval relat-
25 ing to the same rule may not be considered under this

1 chapter in the same Congress by either the House of Rep-
2 resentatives or the Senate.

3 “(b)(1) A major rule shall not take effect unless the
4 Congress enacts a joint resolution of approval described
5 under section 802.

6 “(2) If a joint resolution described in subsection (a)
7 is not enacted into law by the end of 70 session days or
8 legislative days, as applicable, beginning on the date on
9 which the report referred to in section 801(a)(1)(A) is re-
10 ceived by Congress (excluding days either House of Con-
11 gress is adjourned for more than 3 days during a session
12 of Congress), then the rule described in that resolution
13 shall be deemed not to be approved and such rule shall
14 not take effect.

15 “(c)(1) Notwithstanding any other provision of this
16 section (except subject to paragraph (3)), a major rule
17 may take effect for one 90-calendar-day period if the
18 President makes a determination under paragraph (2) and
19 submits written notice of such determination to the Con-
20 gress.

21 “(2) Paragraph (1) applies to a determination made
22 by the President by Executive order that the major rule
23 should take effect because such rule is—

24 “(A) necessary because of an imminent threat
25 to health or safety or other emergency;

1 “(B) necessary for the enforcement of criminal
2 laws;

3 “(C) necessary for national security; or

4 “(D) issued pursuant to any statute imple-
5 menting an international trade agreement.

6 “(3) An exercise by the President of the authority
7 under this subsection shall have no effect on the proce-
8 dures under section 802.

9 “(d)(1) In addition to the opportunity for review oth-
10 erwise provided under this chapter, in the case of any rule
11 for which a report was submitted in accordance with sub-
12 section (a)(1)(A) during the period beginning on the date
13 occurring—

14 “(A) in the case of the Senate, 60 session days,
15 or

16 “(B) in the case of the House of Representa-
17 tives, 60 legislative days,

18 before the date the Congress is scheduled to adjourn a
19 session of Congress through the date on which the same
20 or succeeding Congress first convenes its next session, sec-
21 tions 802 and 803 shall apply to such rule in the suc-
22 ceeding session of Congress.

23 “(2)(A) In applying sections 802 and 803 for pur-
24 poses of such additional review, a rule described under
25 paragraph (1) shall be treated as though—

1 “(i) such rule were published in the Federal
2 Register on—

3 “(I) in the case of the Senate, the 15th
4 session day, or

5 “(II) in the case of the House of Rep-
6 resentatives, the 15th legislative day,
7 after the succeeding session of Congress first con-
8 venes; and

9 “(ii) a report on such rule were submitted to
10 Congress under subsection (a)(1) on such date.

11 “(B) Nothing in this paragraph shall be construed
12 to affect the requirement under subsection (a)(1) that a
13 report shall be submitted to Congress before a rule can
14 take effect.

15 “(3) A rule described under paragraph (1) shall take
16 effect as otherwise provided by law (including other sub-
17 sections of this section).

18 **“§ 802. Congressional approval procedure for major**
19 **rules**

20 “(a) For purposes of this section, the term ‘joint res-
21 olution’ means only a joint resolution introduced on or
22 after the date on which the report referred to in section
23 801(a)(1)(A) is received by Congress (excluding days ei-
24 ther House of Congress is adjourned for more than 3 days
25 during a session of Congress), the matter after the resolv-

1 ing clause of which is as follows: ‘That Congress approves
2 the rule submitted by the __ __ relating to __ __.’ (The
3 blank spaces being appropriately filled in).

4 “(1) In the House, the majority leader of the
5 House of Representatives (or his designee) and the
6 minority leader of the House of Representatives (or
7 his designee) shall introduce such joint resolution
8 described in subsection (a) (by request), within 3
9 legislative days after Congress receives the report re-
10 ferred to in section 801(a)(1)(A).

11 “(2) In the Senate, the majority leader of the
12 Senate (or his designee) and the minority leader of
13 the Senate (or his designee) shall introduce such
14 joint resolution described in subsection (a) (by re-
15 quest), within 3 session days after Congress receives
16 the report referred to in section 801(a)(1)(A).

17 “(b)(1) A joint resolution described in subsection (a)
18 shall be referred to the committees in each House of Con-
19 gress with jurisdiction under the rules of the House of
20 Representatives or the Senate to report a bill to amend
21 the provision of law under which the rule is issued.

22 “(2) For purposes of this section, the term ‘submis-
23 sion date’ means the date on which the Congress receives
24 the report submitted under section 801(a)(1).

1 “(c) In the Senate, if the committee or committees
2 to which a joint resolution described in subsection (a) has
3 been referred have not reported it at the end of 15 session
4 days after its introduction, such committee or committees
5 shall be automatically discharged from further consider-
6 ation of the resolution and it shall be placed on the cal-
7 endar. A vote on final passage of the resolution shall be
8 taken on or before the close of the 15th session day after
9 the resolution is reported by the committee or committees
10 to which it was referred, or after such committee or com-
11 mittees have been discharged from further consideration
12 of the resolution.

13 “(d)(1) In the Senate, when the committee or com-
14 mittees to which a joint resolution is referred have re-
15 ported, or when a committee or committees are discharged
16 (under subsection (c)) from further consideration of a
17 joint resolution described in subsection (a), it is at any
18 time thereafter in order (even though a previous motion
19 to the same effect has been disagreed to) for a motion
20 to proceed to the consideration of the joint resolution, and
21 all points of order against the joint resolution (and against
22 consideration of the joint resolution) are waived. The mo-
23 tion is not subject to amendment, or to a motion to post-
24 pone, or to a motion to proceed to the consideration of
25 other business. A motion to reconsider the vote by which

1 the motion is agreed to or disagreed to shall not be in
2 order. If a motion to proceed to the consideration of the
3 joint resolution is agreed to, the joint resolution shall re-
4 main the unfinished business of the Senate until disposed
5 of.

6 “(2) In the Senate, debate on the joint resolution,
7 and on all debatable motions and appeals in connection
8 therewith, shall be limited to not more than 2 hours, which
9 shall be divided equally between those favoring and those
10 opposing the joint resolution. A motion to further limit
11 debate is in order and not debatable. An amendment to,
12 or a motion to postpone, or a motion to proceed to the
13 consideration of other business, or a motion to recommit
14 the joint resolution is not in order.

15 “(3) In the Senate, immediately following the conclu-
16 sion of the debate on a joint resolution described in sub-
17 section (a), and a single quorum call at the conclusion of
18 the debate if requested in accordance with the rules of the
19 Senate, the vote on final passage of the joint resolution
20 shall occur.

21 “(4) Appeals from the decisions of the Chair relating
22 to the application of the rules of the Senate to the proce-
23 dure relating to a joint resolution described in subsection
24 (a) shall be decided without debate.

1 “(e)(1) In the House of Representatives, if the com-
2 mittee or committees to which a joint resolution described
3 in subsection (a) has been referred have not reported it
4 at the end of 15 legislative days after its introduction,
5 such committee or committees shall be automatically dis-
6 charged from further consideration of the resolution and
7 it shall be placed on the appropriate calendar. A vote on
8 final passage of the resolution shall be taken on or before
9 the close of the 15th legislative day after the resolution
10 is reported by the committee or committees to which it
11 was referred, or after such committee or committees have
12 been discharged from further consideration of the resolu-
13 tion.

14 “(2)(A) A motion in the House of Representatives to
15 proceed to the consideration of a resolution shall be privi-
16 leged and not debatable. An amendment to the motion
17 shall not be in order, nor shall it be in order to move to
18 reconsider the vote by which the motion is agreed to or
19 disagreed to.

20 “(B) Debate in the House of Representatives on a
21 resolution shall be limited to not more than two hours,
22 which shall be divided equally between those favoring and
23 those opposing the resolution. A motion to further limit
24 debate shall not be debatable. No amendment to, or mo-
25 tion to recommit, the resolution shall be in order. It shall

1 not be in order to reconsider the vote by which a resolution
2 is agreed to or disagreed to.

3 “(C) Motions to postpone, made in the House of Rep-
4 resentatives with respect to the consideration of a resolu-
5 tion, and motions to proceed to the consideration of other
6 business, shall be decided without debate.

7 “(D) All appeals from the decisions of the Chair re-
8 lating to the application of the Rules of the House of Rep-
9 resentatives to the procedure relating to a resolution shall
10 be decided without debate.

11 “(f) If, before the passage by one House of a joint
12 resolution of that House described in subsection (a), that
13 House receives from the other House a joint resolution
14 described in subsection (a), then the following procedures
15 shall apply with respect to a joint resolution described in
16 subsection (a) of the House receiving the joint resolu-
17 tion—

18 “(1) the procedure in that House shall be the
19 same as if no joint resolution had been received from
20 the other House; but

21 “(2) the vote on final passage shall be on the
22 joint resolution of the other House.

23 “(g) The enactment of a resolution of approval does
24 not serve as a grant or modification of statutory authority
25 by Congress for the promulgation of a rule, does not extin-

1 guish or affect any claim, whether substantive or proce-
2 dural, against any alleged defect in a rule, and shall not
3 form part of the record before the court in any judicial
4 proceeding concerning a rule.

5 “(h) This section and section 803 are enacted by
6 Congress—

7 “(1) as an exercise of the rulemaking power of
8 the Senate and House of Representatives, respec-
9 tively, and as such it is deemed a part of the rules
10 of each House, respectively, but applicable only with
11 respect to the procedure to be followed in that
12 House in the case of a joint resolution described in
13 subsection (a), and it supersedes other rules only to
14 the extent that it is inconsistent with such rules; and

15 “(2) with full recognition of the constitutional
16 right of either House to change the rules (so far as
17 relating to the procedure of that House) at any time,
18 in the same manner, and to the same extent as in
19 the case of any other rule of that House.

20 **“§ 803. Congressional disapproval procedure for**
21 **nonmajor rules**

22 “(a) For purposes of this section, the term ‘joint res-
23 olution’ means only a joint resolution introduced in the
24 period beginning on the date on which the report referred
25 to in section 801(a)(1)(A) is received by Congress and

1 ending 60 days thereafter (excluding days either House
2 of Congress is adjourned for more than 3 days during a
3 session of Congress), the matter after the resolving clause
4 of which is as follows: ‘That Congress disapproves the
5 nonmajor rule submitted by the ___ ___ relating to ___ ___,
6 and such rule shall have no force or effect.’ (The blank
7 spaces being appropriately filled in).

8 “(b)(1) A joint resolution described in subsection (a)
9 shall be referred to the committees in each House of Con-
10 gress with jurisdiction.

11 “(2) For purposes of this section, the term ‘submis-
12 sion or publication date’ means the later of the date on
13 which—

14 “(A) the Congress receives the report submitted
15 under section 801(a)(1); or

16 “(B) the nonmajor rule is published in the Fed-
17 eral Register, if so published.

18 “(c) In the Senate, if the committee to which is re-
19 ferred a joint resolution described in subsection (a) has
20 not reported such joint resolution (or an identical joint
21 resolution) at the end of 15 session days after the date
22 of introduction of the joint resolution, such committee may
23 be discharged from further consideration of such joint res-
24 olution upon a petition supported in writing by 30 Mem-

1 bers of the Senate, and such joint resolution shall be
2 placed on the calendar.

3 “(d)(1) In the Senate, when the committee to which
4 a joint resolution is referred has reported, or when a com-
5 mittee is discharged (under subsection (c)) from further
6 consideration of a joint resolution described in subsection
7 (a), it is at any time thereafter in order (even though a
8 previous motion to the same effect has been disagreed to)
9 for a motion to proceed to the consideration of the joint
10 resolution, and all points of order against the joint resolu-
11 tion (and against consideration of the joint resolution) are
12 waived. The motion is not subject to amendment, or to
13 a motion to postpone, or to a motion to proceed to the
14 consideration of other business. A motion to reconsider the
15 vote by which the motion is agreed to or disagreed to shall
16 not be in order. If a motion to proceed to the consideration
17 of the joint resolution is agreed to, the joint resolution
18 shall remain the unfinished business of the Senate until
19 disposed of.

20 “(2) In the Senate, debate on the joint resolution,
21 and on all debatable motions and appeals in connection
22 therewith, shall be limited to not more than 10 hours,
23 which shall be divided equally between those favoring and
24 those opposing the joint resolution. A motion to further
25 limit debate is in order and not debatable. An amendment

1 to, or a motion to postpone, or a motion to proceed to
2 the consideration of other business, or a motion to recom-
3 mit the joint resolution is not in order.

4 “(3) In the Senate, immediately following the conclu-
5 sion of the debate on a joint resolution described in sub-
6 section (a), and a single quorum call at the conclusion of
7 the debate if requested in accordance with the rules of the
8 Senate, the vote on final passage of the joint resolution
9 shall occur.

10 “(4) Appeals from the decisions of the Chair relating
11 to the application of the rules of the Senate to the proce-
12 dure relating to a joint resolution described in subsection
13 (a) shall be decided without debate.

14 “(e) In the Senate the procedure specified in sub-
15 section (c) or (d) shall not apply to the consideration of
16 a joint resolution respecting a nonmajor rule—

17 “(1) after the expiration of the 60 session days
18 beginning with the applicable submission or publica-
19 tion date, or

20 “(2) if the report under section 801(a)(1)(A)
21 was submitted during the period referred to in sec-
22 tion 801(d)(1), after the expiration of the 60 session
23 days beginning on the 15th session day after the
24 succeeding session of Congress first convenes.

1 “(f) If, before the passage by one House of a joint
2 resolution of that House described in subsection (a), that
3 House receives from the other House a joint resolution
4 described in subsection (a), then the following procedures
5 shall apply:

6 “(1) The joint resolution of the other House
7 shall not be referred to a committee.

8 “(2) With respect to a joint resolution described
9 in subsection (a) of the House receiving the joint
10 resolution—

11 “(A) the procedure in that House shall be
12 the same as if no joint resolution had been re-
13 ceived from the other House; but

14 “(B) the vote on final passage shall be on
15 the joint resolution of the other House.

16 **“§ 804. Definitions**

17 “For purposes of this chapter—

18 “(1) the term ‘Federal agency’—

19 “(A) means any agency as that term is de-
20 fined in section 551(1); and

21 “(B) includes the Board of Governors of
22 the Federal Reserve System, the Bureau of
23 Consumer Financial Protection, the Commodity
24 Futures Trading Commission, the Federal De-
25 posit Insurance Corporation, the Federal Hous-

1 ing Finance Agency, the Financial Stability
2 Oversight Council, the Office of the Comptroller
3 of the Currency, the Office of Financial Re-
4 search, the National Credit Union Administra-
5 tion, and the Securities and Exchange Commis-
6 sion;

7 “(2) the term ‘major rule’ means any rule, in-
8 cluding an interim final rule, that the Administrator
9 of the Office of Information and Regulatory Affairs
10 of the Office of Management and Budget finds has
11 resulted in or is likely to result in—

12 “(A) an annual effect on the economy of
13 \$100,000,000 or more;

14 “(B) a major increase in costs or prices for
15 consumers, individual industries, Federal,
16 State, or local government agencies, or geo-
17 graphic regions; or

18 “(C) significant adverse effects on competi-
19 tion, employment, investment, productivity, in-
20 novation, or on the ability of United States-
21 based enterprises to compete with foreign-based
22 enterprises in domestic and export markets;

23 “(3) the term ‘nonmajor rule’ means any rule
24 that is not a major rule; and

1 “(4) the term ‘rule’ has the meaning given such
2 term in section 551, except that such term does not
3 include—

4 “(A) any rule of particular applicability,
5 including a rule that approves or prescribes for
6 the future rates, wages, prices, services, or al-
7 lowances therefore, corporate or financial struc-
8 tures, reorganizations, mergers, or acquisitions
9 thereof, or accounting practices or disclosures
10 bearing on any of the foregoing;

11 “(B) any rule relating to agency manage-
12 ment or personnel;

13 “(C) any rule of agency organization, pro-
14 cedure, or practice that does not substantially
15 affect the rights or obligations of non-agency
16 parties; or

17 “(D) a rule that is promulgated by the
18 Board of Governors of the Federal Reserve Sys-
19 tem or the Federal Open Market Committee
20 under section 10A, 10B, 13, 13A, or 19 of the
21 Federal Reserve Act, or any of subsections (a)
22 through (f) of section 14 of that Act.

23 **“§ 805. Judicial review**

24 “(a) No determination, finding, action, or omission
25 under this chapter shall be subject to judicial review.

1 “(b) Notwithstanding subsection (a), a court may de-
2 termine whether a Federal agency has completed the nec-
3 essary requirements under this chapter for a rule to take
4 effect.

5 **“§ 806. Exemption for monetary policy**

6 “Nothing in this chapter shall apply to rules that con-
7 cern monetary policy proposed or implemented by the
8 Board of Governors of the Federal Reserve System or the
9 Federal Open Market Committee.

10 **“§ 807. Effective date of certain rules**

11 “Notwithstanding section 801—

12 “(1) any rule that establishes, modifies, opens,
13 closes, or conducts a regulatory program for a com-
14 mercial, recreational, or subsistence activity related
15 to hunting, fishing, or camping; or

16 “(2) any rule other than a major rule which an
17 agency for good cause finds (and incorporates the
18 finding and a brief statement of reasons therefore in
19 the rule issued) that notice and public procedure
20 thereon are impracticable, unnecessary, or contrary
21 to the public interest,

22 shall take effect at such time as the Federal agency pro-
23 mulgating the rule determines.”.

1 **TITLE V—EPA REGULATORY**
2 **RELIEF**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “EPA Regulatory Re-
5 lief Act of 2011”.

6 **SEC. 502. LEGISLATIVE STAY.**

7 (a) ESTABLISHMENT OF STANDARDS.—In place of
8 the rules specified in subsection (b), and notwithstanding
9 the date by which such rules would otherwise be required
10 to be promulgated, the Administrator of the Environ-
11 mental Protection Agency (referred to in this title as the
12 “Administrator”) shall—

13 (1) propose regulations for industrial, commer-
14 cial, and institutional boilers and process heaters,
15 and commercial and industrial solid waste inciner-
16 ator units, subject to any of the rules specified in
17 subsection (b)—

18 (A) establishing maximum achievable con-
19 trol technology standards, performance stand-
20 ards, and other requirements under sections
21 112 and 129, as applicable, of the Clean Air
22 Act (42 U.S.C. 7412, 7429); and

23 (B) identifying nonhazardous secondary
24 materials that, when used as fuels or ingredi-
25 ents in combustion units of such boilers, proc-

1 ess heaters, or incinerator units are solid waste
2 under the Solid Waste Disposal Act (42 U.S.C.
3 6901 et seq.) (commonly known as the “Re-
4 source Conservation and Recovery Act”) for
5 purposes of determining the extent to which
6 such combustion units are required to meet the
7 emissions standards under section 112 of the
8 Clean Air Act (42 U.S.C. 7412) or the emission
9 standards under section 129 of that Act (42
10 U.S.C. 7429); and

11 (2) finalize the regulations on the date that is
12 15 months after the date of enactment of this Act,
13 or on such later date as may be determined by the
14 Administrator.

15 (b) STAY OF EARLIER RULES.—The following rules
16 are of no force or effect, shall be treated as though the
17 rules had never taken effect, and shall be replaced as de-
18 scribed in subsection (a):

19 (1) The rule entitled “National Emission
20 Standards for Hazardous Air Pollutants for Major
21 Sources: Industrial, Commercial, and Institutional
22 Boilers and Process Heaters” (76 Fed. Reg. 15608)
23 (March 21, 2011).

24 (2) The rule entitled “National Emission
25 Standards for Hazardous Air Pollutants for Area

1 Sources: Industrial, Commercial, and Institutional
2 Boilers” (76 Fed. Reg. 15554) (March 21, 2011).

3 (3) The rule entitled “Standards of Perform-
4 ance for New Stationary Sources and Emission
5 Guidelines for Existing Sources: Commercial and In-
6 dustrial Solid Waste Incineration Units” (76 Fed.
7 Reg. 15704) (March 21, 2011).

8 (4) The rule entitled “Identification of Non-
9 Hazardous Secondary Materials That Are Solid
10 Waste” (76 Fed. Reg. 15456) (March 21, 2011).

11 (c) INAPPLICABILITY OF CERTAIN PROVISIONS.—
12 With respect to any standard required by subsection (a)
13 to be promulgated in regulations under section 112 of the
14 Clean Air Act (42 U.S.C. 7412), the provisions of sub-
15 sections (g)(2) and (j) of that section shall not apply prior
16 to the effective date of the standard specified in those reg-
17 ulations.

18 **SEC. 503. COMPLIANCE DATES.**

19 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
20 each regulation promulgated pursuant to section 702, the
21 Administrator—

22 (1) shall establish a date for compliance with
23 standards and requirements under such regulation
24 that is, notwithstanding any other provision of law,

1 not earlier than 5 years after the effective date of
2 the regulation; and

3 (2) in proposing a date for such compliance,
4 shall take into consideration—

5 (A) the costs of achieving emissions reduc-
6 tions;

7 (B) any nonair quality health and environ-
8 mental impact and energy requirements of the
9 standards and requirements;

10 (C) the feasibility of implementing the
11 standards and requirements, including the time
12 needed—

13 (i) to obtain necessary permit approv-
14 als; and

15 (ii) to procure, install, and test con-
16 trol equipment;

17 (D) the availability of equipment, sup-
18 pliers, and labor, given the requirements of the
19 regulation and other proposed or finalized regu-
20 lations of the Environmental Protection Agency;
21 and

22 (E) potential net employment impacts.

23 (b) NEW SOURCES.—The date on which the Adminis-
24 trator proposes a regulation pursuant to section 702(a)(1)
25 establishing an emission standard under section 112 or

1 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
2 be treated as the date on which the Administrator first
3 proposes such a regulation for purposes of applying the
4 definition of a new source under section 112(a)(4) of that
5 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid
6 waste incineration unit under section 129(g)(2) of that
7 Act (42 U.S.C. 7429(g)(2)).

8 (c) RULE OF CONSTRUCTION.—Nothing in this title
9 restricts or otherwise affects paragraph (3)(B) or (4) of
10 section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

11 **SEC. 504. ENERGY RECOVERY AND CONSERVATION.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, to ensure the recovery and conservation of
14 energy consistent with the Solid Waste Disposal Act (42
15 U.S.C. 6901 et seq.) (commonly known as the “Resource
16 Conservation and Recovery Act of 1976”), in promul-
17 gating regulations under section 702(a) that address the
18 subject matter of the regulations described in paragraphs
19 (3) and (4) of section 702(b), the Administrator shall—

20 (1) adopt the definitions of the terms “commer-
21 cial and industrial solid waste incineration unit”,
22 “commercial and industrial waste”, and “contained
23 gaseous material” contained in the regulation enti-
24 tled “Standards of Performance for New Stationary
25 Sources and Emission Guidelines for Existing

1 Sources: Commercial and Industrial Solid Waste In-
2 cineration Units” (65 Fed. Reg. 75338 (December
3 1, 2000)); and

4 (2) identify nonhazardous secondary material as
5 not to be solid waste for purposes of the Solid Waste
6 Disposal Act (42 U.S.C. 6901 et seq.) if—

7 (A) the material—

8 (i) does not meet the definition of
9 commercial and industrial waste; and

10 (ii) is on the list published by the Ad-
11 ministrator under subsection (b); or

12 (B) in the case of the material that is a
13 gas, the material does not meet the definition of
14 contained gaseous material.

15 (b) LIST OF NONHAZARDOUS SECONDARY MATE-
16 RIALS.—

17 (1) IN GENERAL.—Not later than 120 days
18 after the date of enactment of this Act, the Adminis-
19 trator shall publish a list of nonhazardous secondary
20 materials that are not solid waste when combusted
21 in units designed for energy recovery, including—

22 (A) without limitation, all forms of bio-
23 mass, including—

24 (i) agricultural and forest-derived bio-
25 mass;

- 1 (ii) biomass crops, vines, and orchard
- 2 trees;
- 3 (iii) bagasse and other crop and tree
- 4 residues, including—
- 5 (I) hulls and seeds;
- 6 (II) spent grains;
- 7 (III) byproducts of cotton;
- 8 (IV) corn and peanut production;
- 9 (V) rice milling and grain eleva-
- 10 tor operations;
- 11 (VI) cellulosic biofuels; and
- 12 (VII) byproducts of ethanol nat-
- 13 ural fermentation processes;
- 14 (iv) hogged fuel, including wood pal-
- 15 lets, sawdust, and wood pellets;
- 16 (v) wood debris from forests and
- 17 urban areas;
- 18 (vi) resinated wood and other
- 19 resinated biomass-derived residuals, includ-
- 20 ing trim, sanderdust, offcuts, and wood-
- 21 working residuals;
- 22 (vii) creosote-treated, borate-treated,
- 23 sap-stained, and other treated wood;
- 24 (viii) residuals from wastewater treat-
- 25 ment by the manufacturing industry, in-

- 1 cluding process wastewater with significant
2 British thermal unit (“Btu”) value;
- 3 (ix) paper and paper or cardboard re-
4 cycling residuals, including paper-derived
5 fuel cubes, paper fines, and paper and
6 cardboard rejects;
- 7 (x) turpentine, turpentine derivatives,
8 pine tar, rectified methanol, glycerine, lum-
9 ber kiln condensates, and wood char;
- 10 (xi) tall oil and related soaps;
- 11 (xii) biogases or bioliquids generated
12 from biomass materials, wastewater oper-
13 ations, or landfill operations;
- 14 (xiii) processed biomass derived from
15 construction and demolition debris for the
16 purpose of fuel production; and
- 17 (xiv) animal manure and bedding ma-
18 terial;
- 19 (B) solid and emulsified paraffin;
- 20 (C) petroleum and chemical reaction and
21 distillation byproducts and residues, alcohol,
22 ink, and nonhalogenated solvents;
- 23 (D) tire-derived fuel, including factory
24 scrap tire and related material;

1 (E) foundry sand processed in thermal rec-
2 lamation units;

3 (F) coal refuse and coal combustion re-
4 siduals;

5 (G) shredded cloth and carpet scrap;

6 (H) latex paint water, organic printing
7 dyes and inks, recovered paint solids, and non-
8 metallic paint sludges;

9 (I) nonchlorinated plastics;

10 (J) all used oil that qualifies as recycled oil
11 under section 1004 of the Solid Waste Disposal
12 Act (42 U.S.C. 6903);

13 (K) process densified fuels that contain
14 any of the materials described in this para-
15 graph; and

16 (L) any other specific or general categories
17 of material that the Administrator determines
18 the combustion of which is for use as a fuel
19 pursuant to paragraph (2).

20 (2) ADDITIONS TO THE LIST.—

21 (A) IN GENERAL.—To provide greater reg-
22 ulatory certainty, the Administrator may, after
23 public notice and opportunity to comment, add
24 nonhazardous secondary materials to the list
25 published under paragraph (1)—

- 1 (i) as the Administrator determines
2 necessary; or
3 (ii) based on a petition submitted by
4 any person.

5 (B) RESPONSE.—Not later than 120 days
6 after receiving any petition under subparagraph
7 (A)(ii), the Administrator shall respond to the
8 petition.

9 (C) REQUIREMENTS.—In making a deter-
10 mination under this paragraph, the Adminis-
11 trator may decline to add a material to the list
12 under paragraph (1) if the Administrator deter-
13 mines that regulation under section 112 of the
14 Clean Air Act (42 U.S.C. 7412) would not rea-
15 sonably protect public health with an ample
16 margin of safety.

17 **SEC. 505. OTHER PROVISIONS.**

18 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
19 PRACTICE.—In promulgating rules under section 702(a),
20 the Administrator shall ensure that emissions standards
21 for existing and new sources established under section 112
22 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as
23 applicable, can be met under actual operating conditions
24 consistently and concurrently with emission standards for
25 all other air pollutants regulated by the rule for the source

1 category, taking into account variability in actual source
2 performance, source design, fuels, inputs, controls, ability
3 to measure the pollutant emissions, and operating condi-
4 tions.

5 (b) REGULATORY ALTERNATIVES.—For each regula-
6 tion promulgated pursuant to section 702(a), from among
7 the range of regulatory alternatives authorized under the
8 Clean Air Act (42 U.S.C. 7401 et seq.) including work
9 practice standards under section 112(h) of that Act (42
10 U.S.C. 7412(h)), the Administrator shall impose the least
11 burdensome, consistent with the purposes of that Act and
12 Executive Order 13563 (76 Fed. Reg. 3821 (January 21,
13 2011)).

14 **TITLE VI—REGULATORY TIME-** 15 **OUT**

16 **SEC. 601. SHORT TITLE.**

17 This title may be cited as the “Regulatory Time-Out
18 Act of 2011”.

19 **SEC. 602. DEFINITIONS.**

20 In this title—

21 (1) the term “agency” has the meaning given
22 that term under section 3502(1) of title 44, United
23 States Code; and

24 (2) the term “covered regulation” means a final
25 regulation that—

1 (A) directly or indirectly increases costs on
2 businesses in a manner which will have an ad-
3 verse effect on job creation, job retention, pro-
4 ductivity, competitiveness, or the efficient func-
5 tioning of the economy;

6 (B) is likely to—

7 (i) have an annual effect on the econ-
8 omy of \$100,000,000 or more;

9 (ii) adversely affect in a material way
10 the economy, a sector of the economy, pro-
11 ductivity, competition, jobs, the environ-
12 ment, public health or safety, or State,
13 local, or tribal governments or commu-
14 nities;

15 (iii) create a serious inconsistency or
16 otherwise interfere with an action taken or
17 planned by another agency;

18 (iv) materially alter the budgetary im-
19 pact of entitlements, grants, user fees, or
20 loan programs or the rights and obliga-
21 tions of recipients thereof; or

22 (v) raise novel legal or policy issues;
23 and

24 (C) did not take effect before September 1,
25 2011.

1 SEC. 603. TIME-OUT PERIOD FOR REGULATIONS.

(a) PRIOR REGULATIONS.—A covered regulation that took effect before the date of enactment of this Act shall be treated as though that regulation never took effect for the 1-year period beginning on the date of enactment of this Act.

(b) PROSPECTIVE REGULATIONS.—A covered regulation that has not taken effect before the date of enactment of this Act, may not take effect during the 1-year period beginning on the date of enactment of this Act.

11 **SEC. 604. EXEMPTIONS.**

(a) IN GENERAL.—The head of an agency may exempt a covered regulation prescribed by that agency from the application of section 603, if the head of the agency—

15 (1) makes a specific finding that the covered
16 regulation—

(A) is necessary due to an imminent threat
to human health or safety, or any other emer-
gency;

20 (B) is necessary for the enforcement of a
21 criminal law;

22 (C) has as its principal effect—

(i) fostering private sector job creation and the enhancement of the competitiveness of workers in the United States;

26 (ii) encouraging economic growth; or

1 (iii) repealing, narrowing, or stream-
2 lining a rule, regulation, or administrative
3 process, or otherwise reducing regulatory
4 burdens;

5 (D) pertains to a military or foreign affairs
6 function of the United States; or

7 (E) is limited to interpreting, imple-
8 menting, or administering the Internal Revenue
9 Code of 1986; and

10 (2) submits the finding to Congress and pub-
11 lishes the finding in the Federal Register.

12 (b) REVIEW.—Not later than 10 days after the date
13 of enactment of this Act each agency shall submit any cov-
14 ered regulation that the head of the agency determines
15 is exempt under this section to the Office of Management
16 and Budget and Congress.

17 (c) NONDELEGABLE AUTHORITY.—The head of an
18 agency may not delegate the authority provided under this
19 section to exempt the application of any provision of this
20 title.

1 **TITLE VII—RESCISSION OF**
2 **UNSPENT FEDERAL FUNDS**
3 **TO OFFSET LOSS IN REVE-**
4 **NUES**

5 **SEC. 701. RESCISSION.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, except as provided in subsection (c), of all
8 appropriated discretionary funds remaining unobligated as
9 of the date of enactment of this Act, \$40,000,000,000 is
10 rescinded.

11 (b) IMPLEMENTATION.—

12 (1) IN GENERAL.—The Director of the Office of
13 Management and Budget shall determine and iden-
14 tify—

15 (A) to which appropriation accounts the
16 rescission under subsection (a) shall apply; and

17 (B) the amount of the rescission that shall
18 apply to each such account.

19 (2) REPORT.—Not later than 60 days after the
20 date of enactment of this Act, the Director of the
21 Office of Management and Budget shall submit to
22 Congress and the Secretary of the Treasury a report
23 that describes the accounts and amounts determined
24 and identified for rescission under paragraph (1).

1 (c) EXCEPTION.—This section shall not apply to the
2 unobligated funds of the Department of Defense, the
3 Corps of Engineers, or the Department of Veterans Af-
4 fairs.