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### SURFACE TRANSPORTATION REAUTHORIZATION ACT OF 2021

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OCTOBER 6, 2021.—Ordered to be printed

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Mr. CARPER, from the Committee on Environment and Public  
Works, submitted the following

### R E P O R T

[To accompany S. 1931]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works reports an original bill (S. 1931) to amend title 23, United States Code, to authorize funds for Federal-aid highways and highway safety construction programs, and for other purposes, and recommends that the bill do pass.

#### PURPOSE OF THE LEGISLATION

S. 1931 authorizes Federal-aid highway and highway safety construction programs from fiscal year 2022 to fiscal year 2026.

#### GENERAL STATEMENT AND BACKGROUND

Legislation authorizing Federal investment in our nation's highways dates back over 100 years, to the passage of the Federal Aid Road Act of 1916 and the Federal Highway Act of 1921. However, it was the enactment of the Federal-Aid Highway Act of 1956, which significantly increased Federal investment in America's highways, directed considerable funding to the building of the Interstate System. The legislation also established the Highway Trust Fund (HTF) as the mechanism for funding the Federal-aid highway program and increased some of the existing highway-related Federal fees, established new fees, and provided that most of the revenues from these fees be deposited in the HTF. A number of multi-year reauthorization bills have been passed in the decades following, which authorized and modified the Federal-aid highway

program, provided formula funding to States for the construction and maintenance of the nation's highways, and extended the highway-related fees deposited into the HTF.

A description of the most recent reauthorization bills follows.

*Intermodal Surface Transportation Efficiency Act of 1991*

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) was signed into law by President George H.W. Bush on December 18, 1991, as Public Law 102-240. It authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period between 1992 and 1997. ISTEA was a milestone in the nation's transportation history, as it marked the transition to the modern Federal highway program structure, following the completion of the Interstate System, emphasizing intermodalism, flexibility, and collaborative transportation planning and decisionmaking.

*National Highway System Designation Act of 1995*

The National Highway System Designation Act (NHS Act) was signed into law by President Bill Clinton on November 28, 1995, as Public Law 104-59. The purpose of the NHS Act was to designate the National Highway System, consisting of critical road networks and network connections that are important to the United States' economy, defense, and mobility. The NHS network consists of over 160,000 miles of roads and includes the Interstate System. With the substantial completion of the Interstate System, Congress recognized that the primary Federal responsibility to ensure adequate mobility on our transportation system for people and goods could be achieved on a larger network of roads that incorporates, but is not limited to the Interstate System. Today, Americans depend on a well-maintained NHS that provides critical connections within and between urban and rural communities.

*Transportation Equity Act for the 21st Century*

The Transportation Equity Act for the 21st Century (TEA-21) was signed into law by President Bill Clinton on June 9, 1998, as Public Law 105-178. It authorized Federal surface transportation programs for the 6-year period between 1998 and 2003. TEA-21 built upon the initiatives established in ISTEA to meet the challenges of improving safety and enhancing communities while advancing America's economic growth and competitiveness domestically and internationally through efficient transportation. Flexibility in the use of funds, emphasis on measures to improve the environment, focus on a strong planning process for making investment decisions were continued and enhanced by TEA-21, with a new focus on providing States with assurance of a guaranteed level of Federal surface transportation funding.

*Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users*

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law by President George W. Bush on August 10, 2005, as Public Law 109-59. SAFETEA-LU provided increased transportation infrastructure investment, strengthened transportation safety and environmental

programs, and continued core research activities. Safety was a core focus area for SAFETEA-LU, with the creation of the Highway Safety Improvement Program to provide formula dollars to states to reduce highway fatalities. The law also provided more flexibility for the private sector to participate in certain surface transportation projects through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, and gave more flexibility to States to use road pricing to manage congestion.

During the authorization period of SAFETEA-LU, the Highway Trust Fund balances reached insolvency for the first time, requiring additional funds to be added to the Highway Trust Fund in 2008, to allow for the continued growth of highway and transit spending from the Highway Trust Fund. After the expiration of SAFETEA-LU on September 30, 2009, Federal surface transportation programs were continued through a series of short-term extensions until the enactment of the Moving Ahead for Progress in the 21st Century Act.

#### *Moving Ahead for Progress in the 21st Century Act*

The Moving Ahead for Progress in the 21st Century Act (MAP-21) was signed into law by President Barack Obama on July 6, 2012 as Public Law 112-141. MAP-21 reauthorized the Federal-aid highway program for fiscal years 2013 and 2014 at baseline funding levels. MAP-21 simplified the highway program structure by consolidating and eliminating the Federal programs into a smaller number of programs with broader eligibilities, providing more flexibility to States, while also requiring States and Metropolitan Planning Organizations to collect data and set performance targets for key transportation performance measures, including safety, condition, congestion, air quality, and freight movement. It also included a focus on delivering highway projects more rapidly by providing new flexibilities to complete environmental reviews.

#### *Fixing America's Surface Transportation Act*

The Fixing America's Surface Transportation (FAST) Act was signed into law by President Barack Obama on December 4, 2015 as Public Law 114-94. The FAST Act provided five years of certainty at increased funding levels. Specifically, it authorized \$225.190 billion over fiscal years 2016 through 2020 for highway programs. The FAST Act also largely retained the structure of these programs established in MAP-21, and maintained a focus on safety, and efficient project delivery. The FAST Act included a new focus on freight movement, supported with new formula and competitive grants for highway and intermodal freight, as well as a focus on Federal and State freight planning efforts.

#### *Surface Transportation Reauthorization Act of 2021*

The Surface Transportation Reauthorization Act of 2021 (STRA-21) provides five years of program authorization for fiscal years 2022 through 2026, at an increased funding level, giving State and local governments the certainty and stability they need to improve and develop our nation's surface transportation infrastructure. STRA-21 provides the largest amount of funding by any single reauthorization legislation in history, authorizing \$303.5 billion from the HTF for investments to improve America's roads and bridges

and to keep our economy moving. Highlights of the legislation include:

*Strong, stable Federal partnership*—STRA-21 builds upon the FAST Act and delivers a strong, stable Federal partnership through approximately a 35 percent increase in funding over five years, relative to the previous five year period, with 90 percent distributed to States by formula.

*Climate change*.—STRA-21 recognizes the growing need to address climate change in the transportation sector, both by providing funding for States to enhance the resiliency of their transportation assets to withstand the effects of extreme weather and natural disasters and to reduce the emissions from the transportation sector, which is the sector with the largest amount of emissions in the US economy. STRA-21 provides \$18 billion in funding for a new climate title, which includes both formula programs as well as discretionary grant programs.

STRA-21 creates a new resiliency program, including formula and discretionary grant components that is funded at \$8.7 billion in total. Grants from this program will protect surface transportation assets from natural disasters such as wildfires, hurricanes, flooding, and mudslides. Grants distributed on a competitive basis include set-asides for particular areas of need, including the resilience of surface transportation infrastructure that is at-risk in coastal states due to sea level rise, as well as for emergency evacuation routes.

STRA-21 also creates programs to reduce transportation sector emissions, including a \$6.4 billion apportioned program that will be distributed by formula and available for projects that will reduce transportation emissions, such as transportation electrification, infrastructure for bicycling and walking, and public transportation. An additional \$2.5 billion in new funding will be available as competitive grants for electric charging and hydrogen, natural gas, and propane charging infrastructure, with half focused on building out Alternative Fuel Corridors designated along the National Highway System, and half available for installing such infrastructure in communities, including at workplaces, schools, parks, and other publicly accessible locations. States will also be required to develop emissions reduction strategies to reduce their transportation-related greenhouse gas emissions.

Additional climate-focused programs include competitive grants to help States and cities reduce traffic congestion in and around large urbanized areas, with new flexibilities for pricing to manage transportation demand; competitive grants to reduce truck emissions at ports; and a program that authorizes funding for appropriations to mitigate urban heat islands.

*Safety*.—STRA-21 significantly increases funding in the existing Highway Safety Improvement Program, and introduces program reforms focused on the safety of vulnerable road users, including bicyclists and pedestrians. New program requirements include a State assessment of the safety of vulnerable road users, which will be integrated into the Strategic Highway Safety Plan. States with high rates of vulnerable road user fatalities will also be required to set-aside a greater portion of funding for projects to improve the safety of such users.

STRA-21 also enhances safety through a new competitive grant program to provide \$350 million over 5 years for projects designed to reduce wildlife-vehicle collisions. It also adds eligibilities for wildlife crossing structures within formula programs, and prioritizes the research and development of animal detection systems to reduce the number of wildlife-vehicle collisions.

*Project delivery and process improvements.*—STRA-21 codifies core elements of the One Federal Decision policy for highway projects including: a 2-year goal for completion of environmental reviews; a 90-day timeline for related project authorizations; and a single environmental document and record of decision to be signed by all participating agencies. In addition, the bill provides flexibility to the U.S. Department of Transportation (DOT) during the environmental review process, allowing the agency to set a schedule for projects, and limiting a possible extension request for other participating agencies to only one year.

The bill also improves interagency coordination in ways designed to facilitate environmental reviews without sacrificing environmental protections. A new provision will allow Federal Land Management Agencies to use environmental review documents created by DOT, and another provision directs non-DOT agencies to evaluate DOT categorical exclusions every four years and publish a notice of proposed rulemaking to adopt relevant categorical exclusions, as appropriate, within one year. STRA-21 also includes provisions to enable State DOTs to proceed more quickly with utility relocation work that is necessitated by a highway project.

STRA-21 includes program modifications designed to facilitate timely project delivery outside of the environmental provisions as well. Changes to the TIFIA program will streamline the application process and will increase transparency and certainty for projects seeking credit assistance. STRA-21 also increases funding for the Technology and Innovation Deployment Program, which will support new and innovative construction technologies for smarter, accelerated project delivery.

*Bridge investment program.*—STRA-21 authorizes \$6.53 billion over five years, including \$3.265 billion from the Highway Trust Fund, for a competitive bridge program to address the backlog of bridges in or near poor condition nationwide. This program includes a focus on large bridges that are difficult to complete through a State's annual apportionments. No less than 50 percent of the program will support bridges with a total project cost larger than \$100 million, and the program enables the use of multi-year grant agreements for these large projects, to allow more bridge projects to receive the grant funding needed to proceed to construction. This legislation also includes a tribal set-aside of \$100 million over the reauthorization to be directed to the Tribal Transportation Bridge Program.

*Rural and urban needs.*—STRA-21 includes a new \$2 billion competitive grant program to improve and expand surface transportation infrastructure in rural communities. The program will increase connectivity, improve safety and reliability of the movement of people and freight, and the generation of regional economic growth and improve quality of life in rural communities. No less than 25 percent of the funding for this program is reserved for projects that further the completion of designated routes of the Ap-

palachian Development Highway System. In addition, this program sets aside 15 percent of the funding for projects in States with higher than average rural roadway lane departure fatalities.

STRA–21 includes a \$500 million competitive grant program to remove highways that constitute a barrier to mobility within communities. The bill also provides an increase in the suballocation of the funding for transportation alternatives and requires the suballocation of funding for the Carbon Reduction Program. Suballocation of funding ensures that money is distributed within a State according to the location of the population of that state, both in urban and rural areas.

*Tribal and Federal lands programs.*—STRA–21 increases funding for tribal and Federal lands transportation programs, which includes \$3.012 billion for the Tribal Transportation Program and \$2.195 billion for the Federal Lands Transportation Program over five years. In addition, the bill provides \$275 million over five years in funding from the HTF for the Nationally Significant Federal Lands and Tribal Projects program to fund the construction and rehabilitation of nationally significant projects on Federal and tribal lands.

### *Conclusion*

Improving the nation’s surface transportation infrastructure, building upon the previously enacted reforms included in MAP–21 and FAST Act, and delivering five years of funding certainty at an increased funding level will provide long-term benefits to communities across the United States. With a 35 percent increase above the FAST Act and the inclusion of a climate title, STRA–21 would be a bill of historic proportions and would deliver the largest funding authorization ever enacted. The bill maintains each State’s share of highway formula funding, ensuring that each State will receive increased funding and will have the flexibility to address its unique surface transportation needs. Further, the bill expands the flexibility and eligible uses of formula funds. These key features provide critical long-term stability and certainty which will allow State and local governments to invest immediately in much-needed projects to maintain and improve the nation’s surface transportation infrastructure. In addition to funding certainty and program stability, the bill includes key priorities and targeted reforms designed to improve the safety of road users, accelerate project delivery, improve resiliency to disasters, reduce transportation emissions, and grow the economy.

## SECTION-BY-SECTION ANALYSIS

### *Sec. 1. Short Title; Table of Contents*

Section 1 states that the Act may be cited as “Surface Transportation Reauthorization Act of 2021” (STRA–21) and includes a Table of Contents.

### *Sec. 2. Definitions*

Section 2 defines the “Department” for the purpose of the Act as the Department of Transportation, and defines the “Secretary” for the purposes of the Act as the Secretary of Transportation.

*Sec. 3. Effective Date*

Section 3 provides that STRA–21 and amendments made by STRA–21 take effect on October 1, 2021.

## TITLE—FEDERAL-AID HIGHWAYS

## SUBTITLE A—AUTHORIZATIONS AND PROGRAMS

*Sec. 1101. Authorization of appropriations*

Section 1101 provides the level of contract authority funding to be made available from the Highway Trust Fund for the Federal-aid highway programs to provide funding certainty to States and other recipients of Federal highway funding. It also provides the level of authorizations for appropriation from the General Fund for certain programs during the same five-year authorization period of the bill, fiscal years 2022 through 2026.

*Sec. 1102. Obligation ceiling*

Section 1102 sets the annual limitation on obligations for Federal-aid highway programs for each of fiscal years 2022 through 2026. This section identifies the programs that are exempt from the obligation limitation and provides the methodology for distributing the obligation authority between programs and among the States.

*Sec. 1103. Definitions*

Section 1103 modifies the definition of the term “construction” to include activities associated with assessing resilience and building wildlife crossing structures, modifies the definition of the term “transportation systems management and operations” to include consideration of incorporating natural infrastructure, and adds definitions for the terms “resilience” and “natural infrastructure” to the list of defined terms under Section 101 of title 23 United States Code.

*Sec. 1104. Apportionment*

Section 1104 provides the amounts for administrative expenses of Federal Highway Administration (FHWA) for each fiscal year and distributes contract authority funding among the States.

*Sec. 1105. National highway performance program*

Section 1105 augments the purpose of the National Highway Performance Program (NHPP) to include a focus on measures that increase resiliency to the impacts of sea level rise, extreme weather events, flooding, and other natural disasters, such as earthquakes and rockslides. This section expands eligibility for States to use NHPP funds for resiliency, cybersecurity, and undergrounding utility infrastructure. It also allows a State to use up to 15 percent of its NHPP funding for protective features on a Federal-aid highway or bridge that is off the National Highway System if the protective feature is designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters. This section provides a list of protective features that are included, but does not limit the Secretary to only funding those features that are listed.

*Sec. 1106. Emergency relief*

Section 1106 clarifies the Emergency Relief (ER) program may include repairing damage from natural disasters over a wide area caused by wildfire. It allows the use of ER program funding for protective features designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

This section removes the restriction on funding for certain projects that were already included on a statewide transportation improvement plan at the time of a disaster. It expands the definition of a comparable facility to include a facility that incorporates economically justifiable improvements designed to mitigate the risk of recurring damage from extreme weather events, flooding, or other natural disasters. This section provides a list of protective features that are included, but does not limit the Secretary to only funding those features that are listed.

*Sec. 1107. Federal share payable*

Section 1107 provides for a Federal share payable of up to 100 percent for vehicle-to-infrastructure communication equipment and contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction activities.

This section extends the deadline for projects to be 100 percent Federal-share from 180 to 270 days, as well as allowing for both permanent and temporary repairs to be 100 percent Federal-share under the Emergency Relief Program. This section allows the Secretary to waive the Federal-share for certain research projects that are carried out with certain apportioned funding after considering certain factors such as whether a project or activity best serve the interests of the Federal-aid highway program and addresses national or regional high priority research, development, and technology transfer problems in a manner that would benefit multiple States or metropolitan planning organizations.

This section also creates a Federal Share Flexibility Pilot Program that gives up to ten States additional flexibility to determine the Federal share on a project, multiple-project, or program basis for projects under any of the following programs: National Highway Performance Program, the Surface Transportation Block Grant Program, the Highway Safety Improvement Program, the Congestion Mitigation and Air Quality Improvement Program National Highway Freight Program, the Carbon Reduction Program, and the PROTECT grant program. This program will provide additional flexibility for States to meet their non-Federal match requirements within a fiscal year, without resulting in any reduction on net in non-Federal match requirements.

*Sec. 1108. Railway-highway grade crossings*

Section 1108 continues to set aside \$245,000,000 of the funding authorized for the Highway Safety Improvement Program (HSIP) for the Railway-Highway Crossings (Section 130) Program for each of fiscal years 2022 through 2026. This section removes the requirement that at least half of the funds set aside for the Section 130 program must be for the installation of protective devices at railway-highway crossings. This section increases the Federal share for



projects funded under the Section 130 program from 90 to 100 percent, as well as clarifies that the replacement of functionally obsolete warning devices is an eligible expense. This section also increases the amount of state incentive payment at-grade crossing closures from \$7,500 to \$100,000, and increases the set-aside for compilation and analysis of data from 2 percent up to 8 percent.

This section emphasizes eligibility for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings, and states that it is the sense of Congress that the DOT should, where feasible, coordinate efforts to prevent or reduce trespasser deaths along railroad rights-of-way and at or near railway-highway crossings. This section requires the Comptroller General of the United States to submit a report that includes an analysis of the effectiveness of the Section 130 program as a set-aside within HSIP.

*Sec. 1109. Surface transportation block grant program*

Section 1109 increases the amount of funding set aside within the Surface Transportation Block Grant (STBG) Program to 10 percent for the Transportation Alternatives Program (TAP), increases the minimum percentage of TAP funding that is sub-allocated on the basis of population to 59 percent, and provides a process by which States may opt to increase that percentage to as high as 100 percent. This section allows a State to elect to use up to 5 percent of TAP funds on technical and application assistance and administration and adds eligibilities for smaller communities to apply for TAP funding.

This section also adds new eligibilities to STBG including construction of wildlife crossing structures, electric vehicle charging infrastructure and vehicle-to-grid infrastructure, installation and deployment of intelligent transportation technologies, projects that facilitate intermodal connections between emerging transportation technologies, resilience features, cybersecurity protections, and rural barge landings, docks, and waterfront infrastructure projects, and the construction of certain privately-owned ferry boats and terminals.

This section also increases the off-system bridge set-aside, and allows low water crossing replacement projects to be eligible for use under this set-aside, and creates a new set-aside for projects in rural areas.

This section provides for more granular suballocation of funding, with a new population category for 50,000 to 200,000, and provides for state consultation with metropolitan planning organizations to determine the distribution of suballocated funds which will provide a greater degree of certainty for smaller metropolitan areas on the amounts of federal funding they should anticipate to be expended within their planning areas.

*Sec. 1110. Nationally significant freight and highway projects*

Section 1110 amends the Nationally Significant Freight and Highway Projects (NSFHP) program (also known as the INFRA grant program) by raising the cap on eligible multimodal projects to 30 percent of the amounts made available for grants in each of fiscal years 2022 through 2026. This section provides a limited amount of funds (no more than two percent of program funds total)

for the purposes of grant application review, grant administration, and oversight by the National Surface Transportation and Innovative Finance Bureau (also known as the Build America Bureau), and by the relevant operating administrations.

This section sets aside \$150,000,000 per year of NSFHP funds for a pilot program that prioritizes applications offering the greatest non-Federal share of project costs. The Committee intends that for this State Incentives set-aside, the extent of non-Federal share would function as the determining factor in deciding between otherwise competitive applications.

This section also increases the minimum amount (from 10 percent to 15 percent) that the Secretary shall reserve for small projects, as defined by NSFHP, and requires that not less than 30 percent of funds reserved for small projects be used for certain projects in rural areas. This section also increases the Federal share allowable for small projects from 60 to 80 percent, and allows increased maximum Federal involvement for a State with a population density of not more than 80 persons per square mile.

This section also adds the enhancement of freight resilience to natural hazards or disasters such as high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, or steep grades as an additional consideration by the Secretary when making NSFHP grants. The section adds wildlife crossings, surface transportation improvements functionally connected to an international border crossing, which includes projects on, or that connect to, major freight corridors near an international border crossing, as well as marine highway projects functionally connected to the National Highway Freight Network, and regional coordination, planning and multimodal transportation system management along multistate corridors as eligible entities.

This section allows NSFHP grants and other competitively awarded grants greater than \$5,000,000 to be expended after grant selection but prior to the grant agreement being signed, and for such funds to be credited toward the non-Federal cost share of the project.

This section expands the transparency requirements in project selection and requires the Secretary to provide each eligible applicant not selected for an NSFHP grant a written notification that the eligible applicant was not selected, which shall include an offer for a debrief as to why the project was not selected. The Committee view is that transparency in project evaluations and awards is critical, and the Department should seek to use a uniform, transparent and accountable system for evaluating and selecting applications to be recipients of an NSFHP grant.

To improve access to NSFHP grant opportunities for projects in states that have not previously received such grants, the Secretary may also consider whether the State, or eligible entity in that State, has received a grant under this section in previous years when evaluating grant applications. For each project selected for a grant, this section requires the Secretary to submit a report to Congress explaining the reasons the project was selected. Further, this section requires the Comptroller General and the Department of Transportation Inspector General to conduct separate assessments of the NSFHP project selection process.

*Sec. 1111. Highway safety improvement program*

Section 1111 restores flexibility to fund certain non-infrastructure activities and behavioral safety projects, such as educational campaigns about traffic safety and enforcement activities, and allows a State to spend up to 10 percent of its Highway Safety Improvement Program (HSIP) funding on such projects.

This section includes leading pedestrian intervals, construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds, installation or upgrades of traffic control devices for pedestrians and bicyclists, roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, and a pedestrian security feature designed to slow or stop a motor vehicle as an eligible highway safety improvement project.

This section defines a “safe system approach” and “vulnerable road user”, and requires that when total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of their HSIP funds for the following fiscal year for projects to address the safety of vulnerable road users. This section also directs the Secretary to update the study on High-risk rural roads.

This section creates a Vulnerable Road User Safety Assessment, to be integrated into the existing requirement for a State Strategic Highway Safety Plan, which requires states to gather and assess data on fatalities and serious injuries of vulnerable road users, and identify a program of projects to mitigate such safety risks. The Committee notes that assessments of vulnerable road user safety and projects to improve safety of vulnerable road users could benefit from the collection of data on fatality and serious injury rates for vulnerable road users. The intent of this section is to create a larger focus on, and accountability for, the safety of all road users to address increased fatalities among cyclists and pedestrians in recent years. The Committee view is that projects to improve safety for vulnerable road users should safely integrate and provide safe access for vulnerable road users, consistent with a safe system approach.

*Sec. 1112. Federal lands transportation program*

Section 1112 raises the cap on Federal Lands Transportation Program (FLTP) funds that may be used to improve public safety and reduce wildlife vehicle collisions while maintaining habitat connectivity from \$10,000,000 to \$20,000,000 per year. This section also requires entities carrying out FLTP projects to consider the use of native plants and designs that minimize runoff and heat generation.

*Sec. 1113. Federal lands access program*

Section 1113 broadens activities eligible under the Federal Lands Access Program (FLAP) to include contextual wayfinding markers, landscaping, and cooperative mitigation of visual blight. This section also requires entities carrying out FLAP projects to consider the use of native plants and designs that minimize runoff and heat generation. This section also allows the use of context-sensitive solutions, which help to ensure that designs for a built structure’s

size, scale, spacing, lighting, materials, and other design elements are respectful of the setting's natural, scenic, historical, archaeological, and cultural values and visually connect or integrate the character of the Federal lands with adjacent areas and communities.

This section also makes FLAP projects eligible for 100 percent Federal share, and lifts the cap for bridge inspections and transportation planning activities from 5 to 20 percent.

*Sec. 1114. National highway freight program*

Section 1114 increases the maximum number of highway miles a State may designate as critical rural freight corridors from 150 to 300 miles, and as critical urban freight corridors from 75 to 150 miles. This section also provides additional flexibility for lower population-density States to designate as critical rural freight corridors a maximum of 600 miles of highway, or 25 percent of the primary highway freight system mileage in the State—whichever is greater. The section increases the percent of program funds that may be used for eligible multimodal projects from a 10 percent cap to a 30 percent cap, and adds lock, dam, and marine highway projects as eligible as long as the projects are functionally connected to the National Highway Freight Network and are likely to reduce on-road mobile source emissions.

*Sec. 1115. Congestion mitigation and air quality improvement program*

Section 1115 adds flexibility to the Congestion Mitigation and Air Quality Improvement Program (CMAQ) by allowing States to spend up to 10 percent of CMAQ funds on certain lock and dam modernization or rehabilitation projects and certain marine highway corridor, connector, or crossings projects if such projects are functionally connected to the Federal-aid highway system and are likely to contribute to the attainment or maintenance of a national ambient air quality standard. This section also clarifies when eligible transit operating costs are not subject to a time limitation or phase-out requirement.

This section also adds eligibility for shared micromobility, including bike share and shared scooter systems, as well as for the purchase of medium- or heavy-duty zero emission vehicles and related charging equipment. This section also permits for the Secretary, at the request of an MPO, to assist that MPO with tracking progress made in minority or low-income populations as part of a performance plan.

The Committee notes that sustainability and program efficacy may be enhanced by the ability of state and local project sponsors to leverage data and technology to monitor air quality and to improve investment decisionmaking.

*Sec. 1116. Alaska Highway*

Section 1116 clarifies that the Secretary may provide allocated and apportioned funding for certain sections of the Alaska Highway, including sections in Canada, if the highway meets all applicable eligibility requirements. This section does not create new programs or funding sources. This section does not alter current or require new agreements between the United States and Canada.

*Sec. 1117. Toll roads, bridges, tunnels, and ferries*

Section 1117 clarifies that the construction of ferry boats and terminals also includes the construction of maintenance facilities, and permits the use of Federal funds to procure transit vehicles as part of the ferry boat program if the vehicles are used exclusively as part of an intermodal ferry trip. This section also clarifies that for a project to replace or retrofit a diesel fuel ferry vessel that provides substantial emissions reductions, the Federal share of the cost of the project may be up to 85 percent, as determined by the State.

*Sec. 1118. Bridge investment program*

Section 1118 establishes a new competitive grant program to assist State, local, Federal and tribal entities in rehabilitating or replacing bridges, including culverts, and eligibility for large projects and bundling of smaller bridge projects. This program is will provide funding to address the large backlog of bridge projects across the country, and in particular, large bridge projects that are difficult to fund through a State's annual apportionments.

Under this program, the minimum grant amount for a large project is not less than \$50,000,000; the minimum grant amount for any other eligible project is \$2,500,000. In all cases, grant amounts, in combination with other anticipated funds, should be of a size sufficient to enable the project to proceed through completion. This program prioritizes certain projects within States that have applied for but have yet to receive grants, and requires the Secretary, during the period of fiscal years 2022 through 2026, to award a selected State with not fewer than either 1 large project, or 2 other than large projects.

The bridge program would include an application and evaluation process for large projects, after which the Secretary would submit an annual report to Congress on funding recommendations for large projects, based on project evaluations. Large projects could be funded with multi-year funding agreements in order to allow more projects to proceed to construction more quickly. To be able to receive a grant for a project under the program, the Secretary is to determine that an eligible bridge project is justified under factors listed in the section. Further, this program allows for funding of large projects during the first year of the program. The Committee directs the Department to use data currently gathered to the maximum extent possible for applications and evaluations.

Under this program, at least 50 percent of program funds, in the aggregate from fiscal years 2022 through 2026, must be used for large projects, and a total of \$100 million over five years would be set-aside for tribal bridge projects.

*Sec. 1119. Safe routes to school*

Section 1119 codifies the Safe Routes to School Program and amends it to apply the program through 12th grade to enable and encourage high school students to walk and bike to school safely. The program activities continue to be eligible under the Transportation Alternatives Program, rather than receive direct funding.

*Sec. 1120. Highway use tax evasion projects*

Section 1120 reauthorizes funding to be used by the Secretary in conjunction with the Internal Revenue Service to address highway use tax evasion for fiscal years 2022 through 2026.

*Sec. 1121. Construction of ferry boats and ferry terminal facilities*

Section 1121 increases funding for the ferry boat program, which funds the construction of ferry boats and ferry terminal facilities.

*Sec. 1122. Vulnerable road user research*

Section 1122 directs the FHWA Administrator to establish a research plan to prioritize research on roadway designs, the development of safety countermeasures to minimize fatalities and serious injuries to vulnerable road users, and the promotion of bicycling and walking. This includes research relating to roadway safety improvements, the impacts of traffic speeds, and tools to evaluate the impact of transportation improvements on projected rates and safety of bicycling and walking. The Committee notes the gaps in uniform, granular data on rates of bicycling and walking as an important data gap to be addressed, to enable States and localities to evaluate the extent to which a project has improved both the access and safety of vulnerable road users.

*Sec. 1123. Wildlife crossing safety*

Section 1123 establishes a wildlife crossing pilot program to provide grants for projects designed to reduce wildlife-vehicle collisions and improve habitat connectivity. This section also requires the Secretary to update and expand the “Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress,” develop reports, guidance and data collection methodology.

*Sec. 1124. Consolidation of programs*

Section 1124 provides funding for Operation Lifesaver, work zone safety grants, and safety clearinghouses for fiscal years 2022 through 2026.

*Sec. 1125. State freight advisory committees*

Section 1125 adds to the makeup and role of State freight advisory committees, and lists State freight advisory committee member qualifications.

*Sec. 1126. Territorial and Puerto Rico highway program*

Section 1126 authorizes increased funding for the Territorial and Puerto Rico Highway Program, a total of \$900,995,000 for Puerto Rico, and \$239,505,000 for the territories on the National Highway System for fiscal years 2022 through 2026. This section also adds eligibility for preventative maintenance for a portion of the allocation to Puerto Rico.

*Sec. 1127. Nationally significant Federal lands and Tribal projects program*

Section 1127 amends Nationally Significant Federal Lands and Tribal Projects Program (NSFLTP) by allowing smaller projects to qualify for the program. This section also allows 100 percent Federal share for Tribal projects. This section further requires an even

split in total use of funds between Federal lands projects and tribal transportation projects, and requires that for each of fiscal years 2022 through 2026 at least one Federal lands project be in a unit of the National Park System with not less than 3,000,000 annual visitors.

*Sec. 1128. Tribal high priority projects program*

Section 1128 reinstates and provides funding for the Tribal High Priority Projects program at \$30,000,000 for each of fiscal years 2022 through 2026 from the General Fund, and sets aside for the program \$9,000,000 per year for each of fiscal years 2022 through 2026 from the Tribal Transportation Program.

*Sec. 1129. Standards*

Section 1129 directs the Department of Transportation to update the Manual on Uniform Traffic Control Devices, and to continue to update the manual no less than every four years thereafter. This section also adds electric vehicle charging stations to the section. The Committee encourages the Department to be cognizant of adding significant new rules and regulations related to the installation of EV charging infrastructure and encourages the Department to refrain from making the process to install EV charging infrastructure so onerous as to delay implementation of this much needed infrastructure.

*Sec. 1130. Public transportation*

Section 1130 adds eligibility for a capital project for the construction of a bus rapid transit corridor or dedicated bus lanes, including the construction or installation of traffic signaling and prioritization systems, redesigned intersections that are necessary for the establishment of a bus rapid transit corridor, on-street stations, fare collection systems, information and wayfinding systems, and depots.

*Sec. 1131. Rural opportunities to use transportation for economic success council*

Section 1131 directs the Secretary to establish a council, to be known as the “Rural Opportunities to Use Transportation for Economic Success Council”, or the “ROUTES Council”, to ensure that the unique transportation needs and attributes of rural areas, Indian Tribes, and disadvantaged rural communities are fully addressed during the development and implementation of programs, policies, and activities of the Department of Transportation.

It also directs the ROUTES Council to increase coordination of programs, policies, and activities of the Department in a manner that improves and expands transportation infrastructure in order to further economic development in, and the quality of life of, rural areas, Indian Tribes, and disadvantaged rural communities, and to provide rural areas, Indian Tribes, and disadvantaged rural communities with proactive outreach to improve access to discretionary funding and financing programs and to facilitate timely resolution on environmental reviews for complex or high-priority projects.

*Sec. 1132. Reservation of certain funds*

Section 1132 amends language to direct the Secretary to determine if a State has not enacted or is not enforcing an open container law, and a repeat intoxicated driver law, for the prior fiscal before the reservation of certain funds is in enacted.

*Sec. 1133. Rural surface transportation grant program*

Section 1133 directs the Secretary to establish a rural surface transportation grant program to provide grants, on a competitive basis, to eligible entities to improve and expand the surface transportation infrastructure in rural areas. The goals of the program include increasing connectivity and mobility, improving safety and reliability of the movement of people and freight, generating regional economic growth, and improving quality of life. A grant under the program shall be at least \$25,000,000, and the Federal share shall be at least 80 percent, and up to 100 percent for projects on the Appalachian Development Highway System. No more than 10 percent of funds may be used for projects smaller than \$25,000,000, and at least 25 percent of funds shall be reserved for projects that further the completion of designated routes of the Appalachian Development Highway System. The program also sets aside 15 percent of the funding for eligible projects in States with higher than average rural roadway lane departure fatalities.

*Sec. 1134. Bicycle transportation and pedestrian walkways*

Section 1134 provides a definition for the class 1, 2, and 3 electric bicycles and the addition of micromobility as an eligible use of funds for construction of walkways and bicycle transportation facilities.

*Sec. 1135. Recreational Trails Program*

Section 1135 allows for funds apportioned to a State under their apportionment to be used on a recreational trail or a related project, shall be administered as if the funds were made available to carry out the Recreational Trails Program.

*Sec. 1136. Updates to the Manual on Uniform Traffic Control Devices*

Section 1136 directs the Department to update the Manual on Uniform Traffic Control Devices (MUTCD), and to include updates necessary to provide for the protection of vulnerable road users, supporting the safe testing of automated vehicle technology and any preparation necessary for the safe integration of automated vehicles onto public streets, appropriate use of variable message signs to enhance public safety, and the minimum retroreflectivity of traffic control devices and pavement markings.

## SUBTITLE B—PLANNING AND PERFORMANCE MANAGEMENT

*Sec. 1201. Transportation planning*

Section 1201 clarifies considerations required of Metropolitan Planning Organizations (MPO) when designating officials or representatives. This section also enhances coordination among MPOs and encourages States and MPOs to use social media and other



web-based tools to encourage public participation in the transportation planning process.

*Sec. 1202. Fiscal constraint on long-range transportation plans*

Section 1202 clarifies that for purposes of developing a financial plan under a metropolitan transportation plan, any years beyond the 4-year transportation improvement plan horizon shall be considered outer years for purposes of financial plan requirements.

*Sec. 1203. State human capital plans*

Section 1203 requires the Secretary to encourage States to develop a voluntary human capital plan for the immediate and long-term transportation-related personnel and workforce needs of the State. These voluntary human capital plans are to be publicly available and updated at least once every 5 years.

*Sec. 1204. Prioritization Process Pilot Program*

Section 1204 establishes a prioritization process pilot program to support data-driven approaches to transportation planning. This section authorizes the Secretary to award grants to selected States and MPOs to fund the development and implementation of publicly accessible, transparent prioritization processes to assess and score projects according to locally determined priorities, and to use such evaluations to inform the selection of projects to include in transportation plans. The purpose of the pilot program is to support data-driven approaches to planning that, on completion, can be evaluated for public benefit.

Pilot program grants may not exceed \$2,000,000. States and MPOs that receive grants shall use funds to develop and implement a publically accessible, transparent prioritization process for the selection of projects for inclusion on the applicable long-term transportation plan. If a grant recipient has fully implemented a prioritization process, they may use any additional remaining grant funds for any transportation planning purpose. In the event that the inclusion or exclusion of a project on a transportation improvement program (TIP) or statewide transportation improvement program (STIP) deviates from the long-term transportation plan, the eligible entity is required to provide a public explanation for the decision.

*Sec. 1205. Travel Demand Data and Modeling*

Section 1205 requires the Secretary to carry out a study of forecasted travel demand data compared to actual observed travel, and to use the findings of that study to inform State and MPO use of travel forecasting to evaluate the impacts of transportation investments on travel demand, to support more accurate travel demand forecasting, and to enhance the capacity of States and MPOs to forecast travel and track observed travel behavior. Research and tools can enable States and MPOs to more accurately evaluate the impacts of planned projects and can help agencies save significant resources while also supporting transportation decisionmaking that results in better performance outcomes.

*Sec. 1206. Increasing safe and accessible transportation options*

Section 1206 requires each State and metropolitan planning organization to spend a minimum amount of funding for either the adoption of complete streets standards and policies, development of a complete streets prioritization plan, active and mass transportation planning, regional and megaregional planning to address travel demand through alternatives to highway travel, or transit-oriented development planning. This section provides an exemption for a State or MPO if it has Complete Streets standards and policies in place, and has developed an up-to-date prioritization plan.

SUBTITLE C—PROJECT DELIVERY AND PROCESS IMPROVEMENT

*Sec. 1301. Codification of One Federal Decision*

Section 1301 amends section 139 of title 23, United States Code, to provide new environmental review procedures and requirements for major projects. Under this section, the Department of Transportation is required to develop a schedule consistent with an agency average of two years to complete an environmental impact statement and requires accountability to the public when milestones are missed. Environmental documents under this section are limited to 200 pages unless a review is of unusual scope and complexity. The Secretary is also directed to work with relevant Federal agencies to adopt appropriate categorical exclusions to facilitate project delivery.

*Sec. 1302. Work zone process reviews*

Section 1302 requires the Secretary to review work zone processes not more frequently than once every 5 years.

*Sec. 1303. Transportation management plans*

Section 1303 requires the Secretary to clarify that only projects with a lane closure for 3 or more consecutive days are to be deemed significant and removes the requirement for a State to develop or implement a transportation management plan for any project that is not on the Interstate and that requires not more than three consecutive days of lane closures.

*Sec. 1304. Intelligent transportation systems*

Section 1304 requires the Secretary to develop guidance for using existing flexibilities with respect to the systems engineering analysis. Specifically, this section requires the Secretary to ensure that the guidance clarifies criteria for low-risk and exempt intelligent transportation system projects to minimize unnecessary delays or paperwork burdens.

*Sec. 1305. Alternative contracting methods*

Section 1305 provides the Secretary flexible authority to use contracting methods available to a State under title 23 on behalf of Federal land management agencies (and Tribes under section 202) in using funds under sections 203, 204, or 308 of title 23, or section 1535 of title 31. This section requires that the Secretary solicit input from stakeholders and consult with Federal land management agencies to establish clear procedures for alternative con-

tracting methods that are consistent with Federal procurement requirements to the maximum extent practicable.

*Sec. 1306. Flexibility for projects*

Section 1306 requires the Secretary, on request by a State, and if in the public interest, to exercise all existing flexibilities under the requirements of title 23 and other requirements administered by the Secretary to expedite processes.

*Sec. 1307. Improved Federal-State stewardship and oversight agreements*

Section 1307 requires the Secretary to request public comment on a template for Federal-State stewardship and oversight agreements and requires the Secretary to update existing agreements with States according to the template.

*Sec. 1308. Geomatic data*

Section 1308 requires the Secretary to develop and issue, for public comment, guidance for the acceptance and use of information obtained from a non-Federal interest through geomatic techniques, including remote sensing and land surveying, cartography, geographic information systems, global navigation satellite systems, photogrammetry, or other remote means.

*Sec. 1309. Evaluation of projects within an operational right-of-way*

Section 1309 establishes deadlines for the review, response, and action by Federal agencies carrying out their permit, approval, or other authorization responsibilities over preventative maintenance, preservation, or highway safety projects (including certain turn lane projects) in the operational right-of-way. This section requires Federal agencies to provide at least a preliminary evaluation of the application within 45 days and subjects Federal agencies that do not meet the requirements of this section to a reporting requirement to describe why the deadline was missed.

*Sec. 1310. Preliminary engineering*

Section 1310 eliminates the requirement in section 102(b) of title 23, United States Code, that a State repay Federal-aid reimbursements for preliminary engineering costs on a project that has not advanced to right-of-way acquisition or construction within 10 years.

*Sec. 1311. Efficient implementation of NEPA for Federal lands management projects*

Section 1311 allows for a Federal land management agency to more efficiently satisfy obligations under the National Environmental Policy Act of 1969 (NEPA) by relying upon an environmental document previously prepared by the Federal Highway Administration. This section also allows for a Federal Land Management Agency to use the categorical exclusions promulgated in the implementing regulations of the Federal Highway Administration if the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project sponsor.

*Sec. 1312. National Environmental Policy Act of 1969 reporting program*

Section 1312 directs the Secretary to carry out a process to track, and annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing time to complete the NEPA process for an environmental impact statement and an environmental assessment.

*Sec. 1313. Surface transportation project delivery program written agreements*

Section 1313 extends the time period for a State to have an agreement to assume the responsibilities under the NEPA, from a term of not more than 5 years, to allow for any State that has participated in a program under this section for at least 10 years, to have a term of 10 years.

*Sec. 1314. State assumption of responsibility for categorical exclusions*

Section 1314 extends the time period for a State to assume the responsibility for determining whether certain designated activities are categorical exclusions, from a term of not more than 3 years, to a term of 5 years, in the case of a State that has assumed the responsibility for categorical exclusions under this section for not fewer than 10 years.

*Sec. 1315. Early utility relocation prior to transportation project environmental review*

Section 1315 allows reimbursement with funds made available for title 23 projects for an “early utility relocation project” (defined as those relocation activities identified by the State for performance prior to completion of environmental review for the transportation project). In order for such reimbursement to occur, the early utility relocation project must subsequently be incorporated into a larger, authorized transportation project. In addition to the requirements for reimbursement, this section also outlines requirements for utility relocation prior to completion of environmental review, including that the early utility relocation project did not influence the environmental review process. This section does not exempt the utility relocation activities from environmental review under the NEPA or any other relevant laws or requirements.

*Sec. 1316. Streamlining of section 4(f) reviews*

Section 1316 establishes a deadline for interagency consultation for Section 4(f) reviews and specifies that if comments are not received within 15 days of the deadline, the Secretary shall assume a lack of objection and proceed with the action.

*Sec. 1317. Categorical exclusions for projects of limited Federal assistance*

Section 1317 amends the existing categorical exclusion for projects of limited Federal funding.

*Sec. 1318. Certain gathering lines located on Federal land and Indian land*

Section 1318 provides the Secretary of the Interior discretion to establish a categorical exclusion for certain gathering lines that would reduce vented, flared, or avoidably lost natural gas from or vehicular traffic servicing onshore oil and gas wells on Federal land and, with tribal consent, Indian land, as described in a sundry notice or right-of-way submitted to the Bureau of Land Management or, where applicable, the Bureau of Indian Affairs.

*Sec. 1319. Annual report*

Section 1319 requires the Secretary to submit to Congress an annual report describing certain projects that are five years or more behind schedule or exceed the original cost estimate for the project by \$1 billion.

SUBTITLE D—CLIMATE CHANGE

*Sec. 1401. Grants for charging and fueling infrastructure*

Section 1401 directs the Secretary to establish a grant program for Alternative Fuel Corridors, as well as a set-aside grant program for Community grants. These programs are designed to strategically deploy publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure along designated alternative fuel corridors or in certain other locations that will be accessible to all drivers of electric vehicles, hydrogen vehicles, propane vehicles, and natural gas vehicles. Eligible entities include a State or political subdivision of a State, a metropolitan planning organization, a unit of local government, a special purpose district or public authority with a transportation function, including a port authority, an Indian tribe, and a territory of the United States. Section 1401 would also make the process of designating alternative fuel corridors periodic and recurring, and also modifies a reporting deadline

Eligible entities under the program are all public entities and are comprised of: a State or political subdivision of a State; an MPO; a unit of local government; a special purpose district or public authority with a transportation function; an Indian tribe; an authority entity, agency, or instrumentality of, or an entity owned by, one or more of the preceding eligible entities; and a group of the preceding eligible entities.

Applications must include a description of how the eligible entity has considered public accessibility relative to the proposed project, collaborative engagement with stakeholders, the location of the proposed project, responsiveness to technology advancements, and the long-term operation and maintenance of the proposed project.

In selecting eligible entities to receive grants, the Secretary must consider whether an application would improve alternative fueling corridor networks, meet the current or anticipated market for charging or alternative fueling infrastructure, enable or accelerate the construction of charging or alternative fueling infrastructure that would be unlikely to be completed without Federal assistance, and support a long-term competitive market for alternative fueling and charging infrastructure. Additionally, the Secretary must con-

sider geographic diversity among applicants, the finances and experience of private entity contractors, and the adequacy of agreements between eligible entities and their private entity contractors.

Grants for the alternative fuel corridors are to be used to contract with a private entity for acquisition and installation of publicly accessible alternative fuel vehicle charging and fueling infrastructure that is directly related to the charging or fueling of a vehicle. Such infrastructure is to be located along an alternative fuel corridor either designated under section 151, or by a State or group of States on the condition that any affected Indian tribes are consulted before the designation. Eligible entities may use a portion of grant funds to provide a private entity operating assistance for the first five years of operations after infrastructure installation.

Eligibility includes propane fueling infrastructure, but limits it to infrastructure for medium- and heavy-duty vehicles.

Fifty percent of the total program funds will be made available each fiscal year for Community Grants, to install EV charging and alternative fuel in locations on public roads, schools, parks, and in publicly accessible parking facilities. These grants will be prioritized for rural areas, low- and moderate income neighborhoods, and communities with low ratios of private parking, or high ratios of multiunit dwellings. The Committee intent in identifying these priority areas is to address EV charging and alternative fueling needs in areas where at-home charging is likely to be challenging, presenting a barrier to adoption of EV or alternative fuel vehicles.

The Federal cost-share for a project may not exceed 80 percent. Further, as a condition of contracting with an eligible entity, a private entity must agree to pay the non-Federal share of project costs.

The Committee intends for this program to support deployment of a nationwide network of electric charging and alternative fueling infrastructure that will support the reduction of vehicle emissions to mitigate the impact of the transportation sector on climate change. The Committee recognizes the role played by the private sector in providing charging and alternative fueling stations in convenient, secure, public locations. It is not the intent of the committee to harm private business plans for charging or alternative fuel infrastructure, but to ensure that the public interest in building out a nationwide network of electric charging and alternative fueling infrastructure is achieved, including in markets in which private entities are not currently providing charging or alternative fueling infrastructure. Other than for the Community grants, it is the Committee's intent that priority be given to eligible entities that partner with private entities that would own and operate the infrastructure, however the Committee does not intend to impose any limitations on entities partnering with regulated entities to own and operate the refueling infrastructure, particularly in markets where no private entities have partnered to apply for grants.

*Sec. 1402. Reduction of truck emissions at port facilities*

Section 1402 establishes a program to reduce idling and emissions at port facilities. This section requires the Secretary to study how ports would benefit from electrification and to study emerging technologies that reduce emissions from idling trucks. This section

requires the Secretary to coordinate and fund projects through competitive grants that reduce port-related emissions from idling trucks. This Section requires that any project funded under a grant under this section shall be treated as a project on a Federal-aid highway. This section requires the Secretary to submit a report to Congress detailing the status and effectiveness of the program.

*Sec. 1403. Carbon reduction program*

Section 1403 establishes a carbon reduction program to reduce transportation emissions. Eligible projects include a project to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, a public transportation project that is eligible for assistance under section 142 (Public Transportation), the construction, planning, and design of on-road and off-road trail facilities for pedestrians and bicyclists, a project for advanced transportation and congestion management technologies, a project for the deployment of infrastructure-based intelligent transportation systems capital improvements, the installation of vehicle to infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology, a project to replace street lighting and traffic control devices with energy-efficient alternatives, and the development of a carbon reduction strategy.

This section provides flexibility for States regarding the use of their funding for this program if they have made progress in reducing transportation emissions, demonstrating reductions that are certified by the Secretary, and represent an emissions reduction measured both on a per-capita basis and on a per-GDP basis.

This section also establishes that two years after the date of enactment a State, in consultation with any metropolitan planning organization designated within the State, shall develop a carbon reduction strategy that supports efforts to reduce transportation emissions from current levels, identifies projects and strategies to reduce transportation emissions, supports the achievement of targets for the reduction of transportation emissions, quantifies the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State, and is appropriate to the population density and context of the State. 65 percent of funding under this program would be suballocated by population.

Section 1403 also permits, at the request of a State, that the Secretary shall provide technical assistance in the development of the carbon reduction strategy.

*Sec. 1404. Congestion relief program*

Subsection (a) of Section 1404 establishes a congestion relief program to provide competitive grants to States, local governments, and metropolitan planning organizations, for projects in large urbanized areas to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas of the United States.

The goals of the congestion relief program are to reduce highway congestion, economic and environmental costs related to congestion, and to optimize existing highway capacity and usage of transit systems that provide alternatives to highways. To achieve these goals,

the program allows States and MPOs to compete for grants for eligible projects within urbanized areas containing populations of more than 1,000,000 people. Grant awards shall be not less than \$10,000,000. Eligible projects consist of planning, design, implementation, and construction activities to achieve program goals, including the deployment and operation of mobility services, integrated congestion management systems, and systems that implement or enforce high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing. Incentive programs that encourage travelers to carpool or use non-highway travel modes are also included. When selecting grants, the Secretary shall give priority to eligible projects located in urbanized areas that are experiencing high degrees of recurrent congestion. The Federal cost-share shall not exceed 80 percent of the total cost of a project.

In addition, the congestion relief program permits the Secretary to allow the use of tolls on the Interstate System as part of a project carried out with a program grant, subject to certain requirements. The Secretary may not approve the use of tolls on the Interstate System under the program in more than 10 urbanized areas.

Subsection (b) of Section 1404 amends section 129(a) of title 23 to require toll facilities on the Interstate System constructed or converted after the date of enactment to allow high occupancy vehicles, transit, and paratransit vehicles to use the facility at a discounted rate or without charge unless the public authority determines that the number of such discounted vehicles would reduce the travel time reliability of the facility.

*Sec. 1405. Freight plans*

Section 1405 adds new strategies for inclusion within the national freight strategic plan, including strategies to promote resilience, national economic growth and competitiveness, and strategies to reduce local air pollution and water runoff. This section does not add or establish new procedural requirements for the approval of State freight plans, and requires the Secretary to approve plans that comply with statutory requirements.

*Sec. 1406. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant program*

Section 1406 establishes a formula and competitive grant program to help States improve the resiliency of transportation infrastructure. The new program will make existing surface transportation infrastructure more resilient to the effects of extreme weather, flooding, and natural disasters that threaten the safety and longevity of surface transportation assets.

Resilience grants authorized under the PROTECT program comprise resilience improvement grants, community resilience and evacuation route grants to fund projects that improve and protect emergency evacuation routes, and at-risk coastal infrastructure grants to address the resilience needs of coastal States.

This section describes the required plan contents of a voluntary resilience improvement plan, and allows a State or eligible entity that receives a grant to have the non-Federal share of projects reduced if the State or eligible entity meets certain voluntary planning requirements. Specifically, as an incentive to States, the non-



Federal share of projects carried out with PROTECT funds can be reduced by seven percent if a State or eligible entity develops a resiliency improvement plan, and reduced by an additional three percent if a State or eligible entity incorporates a resiliency improvement plan within its long-range statewide transportation plan or metropolitan transportation plan.

*Sec. 1407. Healthy Streets program*

Section 1407 establishes a discretionary grant program, to be known as the “Healthy Streets program,” to provide grants to eligible entities to deploy cool pavements and porous pavements and to expand tree cover, with a focus on improving equity for low-income communities and communities of color. The goals of the program are to mitigate urban heat islands, improve air quality, and reduce the extent of impervious surfaces, storm water runoff and flood risks, and heat impacts to infrastructure and road users.

SUBTITLE E—MISCELLANEOUS

*Sec. 1501. Additional deposits into Highway Trust Fund*

Section 1501 repeals section 105 of title 23. Because STRA authorizes funding for Federal-aid highway and highway safety programs for fiscal years 2022 through 2026, there is no need for additional funding to be automatically authorized in the manner contemplated under section 105 of title 23.

*Sec. 1502. Stopping threats on pedestrians*

Section 1502 establishes a grant program to provide assistance to State DOTs and local government entities for bollard installation projects designed to prevent pedestrian injuries and acts of terrorism in areas used by large numbers of pedestrians. The program is authorized for appropriations at \$5,000,000 for each of fiscal years 2022 through 2026.

*Sec. 1503. Transfer and sale of toll credits*

Section 1503 establishes a toll credit exchange on a pilot basis to enable the Secretary to evaluate the feasibility of and demand for a toll credit marketplace through which States could sell, transfer, or purchase toll credits. The Secretary may only select up to 10 States to participate in the pilot program, which allows originating States to transfer or sell toll credits pursuant to section 120(i) of title 23, United States Code. This section allows recipient States to use a credit toward the non-Federal share requirement for any funds made available under title 23 or chapter 53 of title 49, United States Code. Under this section, an originating State shall use the proceeds from the sale of a credit for the construction costs of any title 23 eligible project within that State. Originating and recipient States shall submit to the Secretary a written notification not later than 30 days after the date on which a credit is transferred or sold. Under this section, the Secretary must verify the amount of unused toll credits and provide a publicly accessible website where originating States shall post the verified amount of toll credits available for sale or transfer. The Secretary shall submit an initial and final report to the Committee on Environment and Public Works of the Senate and the Committee on Transpor-

tation and Infrastructure of the House of Representatives not later than 1 and 3 years, respectively, after the date of establishment of the pilot program.

*Sec. 1504. Study of impacts on roads from self-driving vehicles*

Section 1504 directs the Secretary to initiate a study on the existing and future impacts of self-driving vehicles to transportation infrastructure, mobility, the environment, and safety, including impacts on the Interstate System, urban roads, rural roads, corridors with heavy traffic congestion, and transportation systems optimization. The study under shall include specific recommendations for both rural and urban communities regarding the impacts of self-driving vehicles on existing transportation system capacity.

*Sec. 1505. Disaster relief mobilization study*

Section 1505 directs the Secretary to carry out a study to determine the utility of incorporating the use of bicycles into the disaster preparedness and disaster response plans of local communities. The study will look at a vulnerability assessment of the infrastructure in local communities that supports active transportation, including bicycling, walking, and personal mobility devices, with a particular focus on areas in communities that have low levels of vehicle ownership and lack sufficient active transportation infrastructure routes to public transportation. Not later than two years after enactment, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the results of the study carried out and provides recommendations, if any, relating to the methods by which to incorporate bicycles into disaster preparedness and disaster response plans of local communities and improvements to training programs.

*Sec. 1506. Appalachian Regional Commission*

Section 1506 reauthorizes the Appalachian Regional Commission (ARC) at \$200,000,000 for each of fiscal years 2022 through 2026, including \$5,000,000 per year to establish an Appalachian Regional Energy Hub and \$20,000,000 per year to deploy high-speed broadband in the Appalachian region. This section also adds Catawba and Cleveland counties (in North Carolina) and Union County (in South Carolina) as part of the Appalachian region for purposes of the ARC.

*Sec. 1507. Denali Commission*

Section 1507 amends the Denali Commission Act of 1998 by directing that funds transferred to the Commission from another Federal agency not be subject to any requirements that applied to the funds before the transfer, including a requirement in an appropriations act or a requirement or regulation of the agency from which the funds are transferred. This section also authorizes for appropriations \$20 million for each of fiscal years 2022 through 2026.

*Sec. 1508. Requirements for transportation projects carried out through public-private partnerships*

Section 1508 contains transparency requirements for projects carried out through public-private partnerships with an estimated cost of \$100,000,000 or more. Specifically, this section requires that as a condition to receiving Federal financial assistance for a project, a public partner must disclose and certify certain information relating to the private partner's satisfaction of the terms of the public-private partnership agreement not later than 3 years after the date of the opening of the project to traffic. This section also requires the Secretary to provide Congress with notification when projects are carried out through public-private partnerships. This section also requires project sponsors receiving Federal loans or grants to include a detailed value for money analysis within the financial plan if the project sponsor intends to carry out the project through a public-private partnership. This section makes such analysis an eligible expense under the Surface Transportation Block Grant program.

*Sec. 1509. Reconnecting communities pilot program*

Section 1509 establishes a community connectivity pilot program through which eligible entities may apply for planning funds to study the feasibility and impacts of removing, retrofitting, or mitigating an existing transportation facilities that create barriers to mobility, access, or economic development, and for construction funds to carry out a project to remove, retrofit or mitigate an eligible facility and, if appropriate, to replace it with a new facility, including an at-grade boulevard. The Committee intends that retrofitting an eligible facility could include the repurposing or reuse of the facility for a different purpose, such as a greenway, trail, or recreational facility, and that mitigating an existing eligible facility would include design changes to restore connectivity such as by capping a below-grade highway.

An eligible facility includes a limited access highway, viaduct, or any other principal arterial facility that creates a barrier to community connectivity, including barriers to mobility, access, or economic development, due to high speeds, grade separations, or other design factors.

This section allows the Secretary to award planning grants and provide technical assistance to eligible entities. Planning grant awards may not exceed \$2,000,000, and the Federal cost-share for a project may not exceed 80 percent.

This section also allows the Secretary to award capital construction grants to owners of eligible facilities for eligible projects for which all necessary feasibility studies (and other planning activities) have been completed. Eligible projects include the removal and replacement of eligible facilities. Capital construction grants must be at least \$5,000,000. The Federal cost-share for a project may not exceed 50 percent, and the maximum Federal involvement shall not exceed 80 percent. This subsection also allows grantees to form community advisory boards to help achieve inclusive economic development benefits with respect to the project for which a grant is awarded.

The Secretary may not use more than \$15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under this section.

*Sec. 1510. Cybersecurity tool; cyber coordinator*

Section 1510 requires the Federal Highway Administration to develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents. This section requires the FHWA to use the cybersecurity framework established by the National Institute of Standards and Technology, to establish a structured cybersecurity assessment and development program, and to provide for a period of public review and comment on the tool. This section requires the FHWA to designate an office as a “cyber coordinator” for monitoring, alerting, and advising transportation authorities of cyber incidents. It is the intention of the Committee that the scope of this section be limited to actions undertaken by the FHWA and those State and local authorities within its oversight jurisdiction, and that those actions be coordinated with other cybersecurity-related efforts elsewhere in the Department.

*Sec. 1511. Report on emerging alternative fuel vehicles and infrastructure*

Section 1511 directs the Secretary to make publicly available a report that includes an evaluation of emerging alternative fuel vehicles and projections for potential locations of emerging alternative fuel vehicle owners during the 5-year period beginning on the date of submission of the report, identifies areas where emerging alternative fueling infrastructure will be needed to meet the current and future needs of drivers during the 5-year period beginning on the date of submission of the report, identifies specific areas, such as a lack of pipeline infrastructure, that may impede deployment and adoption of emerging alternative fuel vehicles, includes a map that identifies concentrations of emerging alternative fuel vehicles to meet the needs of current and future emerging alternative fueling infrastructure, estimates the future need for emerging alternative fueling infrastructure to support the adoption and use of emerging alternative fuel vehicles, and includes a tool to allow States to compare and evaluate different adoption and use scenarios for emerging alternative fuel vehicles, with the ability to adjust factors to account for regionally specific characteristics. The Committee notes that the Secretary’s report on future investments should consider, among other things, the use of continuous, real-time, edge-processing based video analytic devices and sensors to provide actual vehicle traffic data over time and by vehicle class along alternative fuel corridors. Anonymized data collected by such means would help support the creation of maps that show the actual volume of alternative fuel vehicles as well as identify concentrations of such vehicles.

*Sec. 1512. Nonhighway recreational fuel study*

Section 1512 authorizes a study and recurring report to produce the best available estimate of the total amount of fuel taxes paid by users of non-highway recreational vehicles into the Highway Trust Fund. This section provides that the study will be used to as-

sist Congress in determining an appropriate funding level for the recreational trails program.

*Sec. 1513. Buy America*

Section 1513 requires the Secretary to issue a public notice 15 days in advance of issuing a waiver for the Buy America requirement for Federal-aid projects and to report to Congress annually on all such waivers.

*Sec. 1514. High priority corridors on the National Highway System*

Section 1514 amends section 1105 of the Intermodal Surface Transportation Efficiency Act by adding new future Interstate designations along corridors in North Carolina, Kentucky, Arkansas and Mississippi. This section also requires the Comptroller General to submit a report to Congress on the safety and infrastructure impacts, if any, of the continuation of currently applicable weight limits on those specific highway segments after those segments are open for operation as part of the Interstate system.

*Sec. 1515. Interstate weight limits*

Section 1515 amends section 127 of title 23, United States Code to continue current weight limits by adding exemptions to Federal truck weight limits along specific corridors in North Carolina and Kentucky should those specified corridors become designated as a route on the Interstate System.

*Sec. 1516. Report on air quality improvements*

Section 1516 requires the Comptroller General of the United States to conduct an evaluation of CMAQ that includes consideration of reductions in certain emissions that have resulted from projects under the program, the cost-effectiveness of such reductions, the results of investments under the program in certain communities, the effectiveness of certain performance measures established for traffic congestion and on-road mobile source emissions, and the extent to which the program lacks eligibilities for additional project types that would be likely to contribute to higher air quality.

*Sec. 1517. Roadside highway safety hardware*

Section 1517 requires the Secretary, to the greatest extent possible, to implement recommendations from a Government Accountability Office (GAO) Report entitled "Highway Safety: More Robust DOT Oversight of Guardrails and Other Roadside Hardware Could Further Enhance Safety" published in June 2016 and numbered GAO-16-575. GAO recommendations call for the Secretary to develop a third-party verification of roadside safety hardware testing results from crash test labs and to establish a process to enhance the independence of crash test labs when lab employees test devices that were developed within the parent organization of the employee. While Federal-aid eligibility letters issued by FHWA are not required for roadside safety hardware to be eligible for Federal-aid reimbursement, this section directs FHWA to continue issuing Federal-aid eligibility letters as a service to States until the third-party verification processes are complete.

*Sec. 1518. Permeable pavements study*

Section 1518 requires the Secretary to conduct a study on the effects of permeable pavements on flood control and to develop related models and best practices. This section requires the Secretary to make a report on the results of the study available publicly.

*Sec. 1519. Emergency relief projects*

Section 1519 requires the Secretary to revise the Emergency Relief (ER) program manual of FHWA to: include a definition of resilience; identify procedures that may be used to incorporate resilience into ER projects; encourage the use of complete streets design principles in ER projects; develop best practices for improving the use of resilience in ER projects; and to develop and implement a process to track the consideration of resilience as part of the ER program as well as the cost of ER projects.

*Sec. 1520. Study on stormwater best management practices*

Section 1520 requires the Secretary and Administrator of EPA to offer to enter into an agreement with TRB to conduct a study on stormwater runoff from highways and pedestrian facilities and provide recommendations regarding potential stormwater management recommendations for State departments of transportation. The study will also examine the potential for the Secretary to assist State departments of transportation in implementing and communicating stormwater management practices for highways and pedestrian facilities.

*Sec. 1521. Stormwater best management practices reports*

Section 1521 requires the Administrator of FHWA to update and reissue two existing stormwater best management practices reports to reflect new information and advancements in the field. In addition, this section instructs the Administrator to continue updating the two reports not less frequently than once every five years, unless the reports are either withdrawn or incorporated into regulations.

*Sec. 1522. Invasive plant elimination program*

Section 1522 establishes a new grant program to fund projects by States to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way. The term “invasive plant” means a nonnative plant, tree, grass, or weed species. This section requires the Secretary to prioritize projects that utilize native plants and wildflowers. This section limits amounts to be used for equipment to not more than ten percent and administrative and indirect costs to not more than five percent. This section requires each grantee to coordinate with local authorities and to report annually on the uses of the funds. This section limits the Federal share to 50 percent except in the case of projects that utilize native plants and wildflowers which are eligible for 75 percent Federal share. This section authorizes the program for appropriations at \$50,000,000 per year for each of fiscal years 2022 through 2026.

*Sec. 1523. Over-the-road bus tolling equity*

Section 1523 amends title 23 to ensure there is accountability for equal access to certain tolled facilities between over-the-road buses and public transportation buses. This section adds a reporting requirement for public authorities, and further extends an existing audit requirement to include an audit for reporting compliance.

*Sec. 1524. Bridge terminology*

Section 1524 modernizes bridge terminology used in title 23.

*Sec. 1525. Technical corrections*

Section 1525 makes technical corrections to title 23 of the United States Code.

*Sec. 1526. Working group in covered resources*

Section 1526 directs the Secretary to convene a working group to study the use of aggregate resources in Federal transportation projects and how the proximity of aggregate resources impacts costs and the environment. The group will also examine how state, tribal, and local transportation and planning agencies may consider aggregates resources when developing projects, and identify measures the Federal government, state, tribal and local transportation and planning agencies may take to preserve currently identified aggregate resources for future development. The results of the study are submitted in a report to Congress.

*Sec. 1527. Blood transport vehicles*

Section 1527 permits public authorities with jurisdiction over high-occupancy vehicle (HOV) facilities to allow blood transport vehicles to use the HOV facility under certain circumstances.

*Sec. 1528. Pollinator-friendly practices on roadsides and highway rights-of-way*

Section 1528 establishes a program to provide grants to carry out activities that benefit pollinators on roadsides and highway rights-of-way, and authorizes for appropriations \$2 million for each of fiscal years 2022 through 2026 for the program.

*Sec. 1529. Active transportation infrastructure investment program*

Section 1529 directs the Secretary to carry out an active transportation infrastructure investment program that provides grants on a competitive basis to eligible entities. This section also requires the Secretary to initiate a rulemaking that encourages the use of programmatic categorical exclusion, expedited procurement techniques, and other best practices in regards to connecting active transportation systems.

Eligible projects include construction of active transportation networks that connect people with public transportation, businesses, workplaces, schools, residences, recreation areas, and other community activity centers. Greater Federal-share (up to 100 percent) would be available for projects that serve communities with a poverty rate over 40 percent. This section authorizes for appropriations \$200 million for each of fiscal years 2022 through 2026 for the program.

TITLE II—TRANSPORTATION INFRASTRUCTURE FINANCE AND  
INNOVATION

*Sec. 2001. Transportation Infrastructure Finance and Innovation  
Act of 1998 amendments*

Section 2001 makes several updates to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program intended to increase program utilization, streamline the application process for assistance, and increase transparency in the vetting process for projects seeking TIFIA funds. This section extends the period during which contingent commitments under a master credit agreement must result in a financial close from three years to five years.

This section raises the threshold for securing multiple credit rating agency opinions from \$75,000,000 to \$150,000,000. This section requires the Secretary to provide applicants with an estimate of the timeline of application approval or disapproval and, to the maximum extend practical, such estimate shall be less than 150 days from the submission of a letter of interest. In the case of government borrowers, this section removes the requirement that loans be prepaid with excess revenues so long as those revenues are used for surface transportation projects. This section also adds new criteria to the streamlined application process for public agency borrowers intended to increase the likelihood that the Secretary will be able to move more projects through the process expeditiously. This section extends the authority to use a portion of TIFIA funding for administrative costs through fiscal year 2026. This section increases overall transparency in the TIFIA process by requiring DOT to publish status reports online.

This section adds or modifies several eligibilities under the TIFIA loan program. It adds eligibility for public infrastructure located near transportation facilities to promote transit-oriented development subject to a September 30, 2025 letter of interest deadline and a cap on the funding available for such projects. This section also adds eligibility for airport-related projects subject to a September 30, 2024 letter of interest deadline and a cap on the funding available for such projects, and requires the Secretary to report to Congress on the impact of this new eligibility on the use of TIFIA funds including recommendations for permanent modifications to the program. This section adds eligibility for projects to acquire plant and wildlife habitats pursuant to a transportation project environmental impact mitigation plan.

This section also extends the repayment terms for TIFIA loans for certain assets to the lesser of 75 years, or 75 percent of an asset's useful life to lower the financing costs for these assets. The Committee's intent is for the DOT to consider whether a project for which a TIFIA loan is sought is expected to have a long useful life, and if so, to consider using a longer repayment schedule.

Section 2001 also extends the authorization of State Infrastructure Bank program through fiscal year 2026.

TITLE III—RESEARCH TECHNOLOGY AND EDUCATION

*Sec. 3001. Strategic Innovation for Revenue Collection*

Section 3001 reauthorizes and renames the Surface Transportation System Funding Alternatives Program, to continue the pro-



gram to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms to help maintain the long-term solvency of the Highway Trust Fund, through pilot projects at the State, local, and regional level. The section expands eligible applicants from States DOTs, to include a local government or a group of local governments, a metropolitan planning organization, and a group of metropolitan planning organizations. The section also increases the Federal-share for the program to 80 percent of the total cost of a project carried out by an eligible entity that has not otherwise received a grant under this section, and 70 percent of the total cost of a project carried out by an eligible entity that has received at least 1 grant previously. The Committee notes that DOT should seek opportunities to advance State, local, or regional grants that will also support and integrate with the national-level research conducted under section 3002.

*Sec. 3002. National motor vehicle per-mile user fee pilot*

Section 3002 directs the Secretary, in coordination with the Secretary of the Treasury, to establish a pilot program to demonstrate a national motor vehicle per-mile user fee. In carrying out the pilot program, the Secretary, in coordination with the Secretary of the Treasury, shall provide different methods that volunteer participants can choose from to track motor vehicle miles traveled, solicit volunteer participants from all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, ensure an equitable geographic distribution by population among volunteer participants, and include commercial vehicles and passenger motor vehicles. For the purposes of the pilot program, the Secretary of the Treasury shall establish, on an annual basis, per-mile user fees for passenger motor vehicles, light trucks, and medium- and heavy-duty trucks, which amount may vary between vehicle types and weight classes to reflect estimated impacts on infrastructure, safety, congestion, the environment, or other related social impacts.

The section also establishes a Federal System Funding Alternative Advisory Board to assist with providing the Secretary with recommendations related to the structure, scope, and methodology for developing and implementing the pilot program, carrying out the public awareness campaign, and developing a report. Not later than 1 year after the date on which volunteer participants begin participating in the pilot program, and each year thereafter for the duration of the pilot program, the Secretary and the Secretary of the Treasury shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes an analysis of whether the objectives were achieved, how volunteer participant protections were complied with, whether motor vehicle per-mile user fees can maintain the long-term solvency of the Highway Trust Fund and improve and maintain the surface transportation system, which shall include estimates of administrative costs related to collecting such motor vehicle per mile user fees, how the privacy of volunteers was maintained, and equity impacts of the pilot program, including the impacts of the pilot program on low-income commuters.

*Sec. 3003. Performance management data support program*

Section 3003 extends the authorization and provides a funding source for FHWA to develop, use, and maintain data sets and data analysis tools to MPOs and States in carrying out performance management analyses and requirements. A national performance management program provides information to help Federal, State, and local governments and others in their decision-making as they consider strategic transportation investments and policies.

*Sec. 3004. Data Integration pilot program*

Section 3004 authorizes for appropriation from the General Fund, \$2,500,000 for each of fiscal years 2022 through 2026 to research and develop models that integrate real-time information, including weather conditions, roadway conditions, and information from emergency responders. This section authorizes the Secretary to facilitate data integration between DOT and the National Weather Service, as well as address safety, resiliency, and vulnerability threats, by providing tools to help public safety officials and end users make important transportation decisions.

*Sec. 3005. Emerging technology research pilot program*

Section 3005 establishes a pilot program to conduct emerging technology research, specifically including advanced and additive manufacturing (3-D printing) technologies, as well as research into activities to reduce the impact of automated driving systems and advanced driver automation systems technologies on pavement and infrastructure performance, and to improve transportation infrastructure design. This section authorizes for appropriation from the General Fund \$5,000,000 for each of fiscal years 2022 through 2026 to support the pilot program.

*Sec. 3006. Research and technology development and deployment*

Section 3006 expands the objectives of the Turner Fairbank Highway Research Center to support research on non-market ready technologies in consultation with public and private entities. This section establishes an open challenge and research proposal pilot program that provides grants for proposals to research needs or challenges identified or determined to be important by the Secretary. This section also expands the Technology and Innovation Deployment Program by adding a focus on accelerated market readiness efforts, and increases funding for the program, including \$100,000,000 in new and innovative construction technologies for smarter, accelerated project delivery. This section extends the authorization for the Accelerated Implementation and Deployment of Pavement Technologies program and adds pavement-related considerations to enhance the environment and promote sustainability in the reporting under this program. The modified Advanced Transportation Technologies and Innovative Mobility Deployment program includes intermodal connectivity and a rural set-aside of not less than 20 percent. This section also expands the eligibility under this program to include retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything technology. This section also authorizes a new Center of Excellence on New Mobility and Automated Vehicles to research the impact of automated vehi-

cles and new mobility, such as docked and dockless bicycles and electric scooters.

*Sec. 3007. Workforce development, training, and education*

Section 3007 provides authority to allow States greater flexibility to address surface transportation workforce development, training, and education needs, including activities that address current workforce gaps, such as work on construction projects. This section permits States to obligate funds for purposes such as pre-apprenticeships, apprenticeships, and career opportunities for on-the-job training, and vocational school support. This section modifies an existing grant program under section 504(f) in title 23 that requires the Secretary to make workforce development grants. This section expands the eligibility of educational institutions beyond institutions of higher education. This section also authorizes the Secretary to award grants for training deployment purposes beyond the development, testing, and review of new curricula and education programs. This section encourages coordination and partnership with stakeholders, including industry, construction, labor organizations, and relevant government agencies, such as the U.S. Department of Labor Employment and Training Administration, the U.S. Department of Education, and State, regional, and local partners, such as Workforce Development Boards. This section also establishes minimum reporting requirements for grant recipients to establish accountability in the award of grants.

*Sec. 3008. Wildlife-vehicle collision research*

Section 3008 adds animal detection systems to reduce the number of wildlife-vehicle collisions as eligible for priority consideration for intelligent transportation system (ITS) research projects. This section amends membership of the advisory committee required to advise the Secretary on carrying out ITS programs.

*Sec. 3009. Transportation Resilience and Adaptation Centers of Excellence*

Section 3009 directs the Secretary to designate 10 regional Centers of Excellence for Resilience and Adaptation and 1 national Center of Excellence for Resilience and Adaptation, which shall serve as a coordinator for the regional Centers, to receive grants to advance research and development that improves the resilience of regions of the United States to natural disasters, extreme weather, and the effects of climate change on surface transportation infrastructure and infrastructure dependent on surface transportation. Subject to the availability of appropriations, the Secretary shall provide to each Center of Excellence a grant of not less than \$5,000,000 for each of fiscal years 2022 through 2031 to carry out the activities.

Activities include supporting climate vulnerability assessments informed by climate change science, including national climate assessments produced by the United States Global Change Research Program under section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936), relevant feasibility analyses of resilient transportation improvements, and transportation resilience planning, development of new design, operations, and maintenance standards for transportation infrastructure that can inform Federal

and State decisionmaking, research and development of new materials and technologies that could be integrated into existing and new transportation infrastructure, development, refinement, and piloting of new and emerging resilience improvements and strategies, including natural infrastructure approaches and relocation, development of and investment in new approaches for facilitating meaningful engagement in transportation decisionmaking by local, Tribal, regional, or national stakeholders and communities, technical capacity building, workforce development and training, development and dissemination of data, tools, techniques, assessments, and information that informs Federal, State, Tribal, and local government decisionmaking, policies, planning, and investments, education and outreach regarding transportation infrastructure resilience, and technology transfer and commercialization.

*Sec. 3010. Transportation Access Pilot Program*

Section 3010 establishes a transportation pilot program to develop or procure an accessibility data set and make it available to each eligible entity selected to participate in the pilot program, to improve transportation planning. The pilot will measure the level of access by surface transportation modes to important destinations. The Committee intends the term “public transportation,” as used in this section, to include, but not be limited to, public transportation provided by private intercity bus and commuter bus service providers. Important destinations for purposes of measuring access may include jobs, health care facilities, child care facilities, educational and workforce training facilities, housing, food sources, points within the supply chain for freight commodities, domestic and international markets, and connections between surface transportation modes. The pilot will assess the change in accessibility that would result from new transportation investments.

TITLE IV—INDIAN AFFAIRS

*Sec. 4001. Definition of Secretary*

Section 4001 defines the term “Secretary” as the Secretary of the Interior.

*Sec. 4002. Environmental reviews for certain tribal transportation facilities*

Section 4002 aligns the Department of the Interior’s process of expediting environmental reviews for tribal transportation safety projects to be similar to the Department of Transportation’s process.

*Sec. 4003. Programmatic agreements for tribal categorical exclusions*

Section 4003 allows the Secretary of the Interior or the Secretary of Transportation to enter into programmatic agreements with Indian tribes.

*Sec. 4004. Use of certain tribal transportation funds*

Section 4004 removes the three percent set-aside for the Tribal Transportation Facility Bridges program and specifies funding eligibilities for the same program.

*Sec. 4005. Bureau of Indian Affairs road maintenance program*

Section 4005 authorizes \$50,000,000 for the Road Maintenance Program for fiscal year 2022, with increases of \$2,000,000 per year through fiscal year 2026.

*Sec. 4006. Study of road maintenance on Indian land*

Section 4006 directs the Secretary of the Interior, in consultation with the Secretary of Transportation, to study and address the deferred maintenance backlog of existing roads on Indian land.

*Sec. 4007. Maintenance of certain Indian reservation roads*

Section 4007 allows the Commissioner of U.S. Customs and Border Protection to transfer funds to the BIA to maintain or repair roads under the jurisdiction of the BIA.

*Sec. 4008. Tribal transportation safety needs*

Section 4008 directs the Secretary, in consultation with the Secretary of DOI, Indian tribes, and Alaska Native villages to develop best practices and create a standardized motor vehicle crash report form. Tribes could voluntarily use this crash report form to capture data and communicate with State departments of transportation. This section directs the Bureau of Indian Affairs to use the Incident Management Analysis and Reporting System form of the applicable State to report motor vehicle crash data. This section also modifies the set-aside amount for the Tribal Transportation Program Safety Fund from 2 percent to 4 percent.

*Sec. 4009. Office of Tribal Government Affairs*

Section 4009 establishes an Assistant Secretary for Tribal Government Affairs under the DOT, who shall be appointed by the President but not Senate confirmed.

## LEGISLATIVE HISTORY

On May 26, 2021, the Committee on Environment and Public Works, under the chairmanship of Senator Carper, conducted a business meeting to consider the original bill (S. 1931), the Surface Transportation Reauthorization Act of 2021. The original bill was favorably reported out of Committee by a unanimous roll call vote of 20–0.

## HEARINGS

Since the passage of the FAST Act in 2015, the Committee has held 12 hearings to conduct oversight on the implementation of the FAST Act and hear from stakeholders and inform the development of the Surface Transportation Reauthorization Act of 2021, including three in the 117th Congress.

- 2/8/2017 Full Committee Hearing: “Oversight: Modernizing our Nation’s Infrastructure.”
- 5/3/2017 Full Committee Hearing: “Infrastructure Project Streamlining and Efficiency: Achieving Faster, Better, and Cheaper Results.”
- 5/16/2017 Subcommittee Hearing: “Leveraging Federal Funding: Innovative Solutions for Infrastructure.”

- 5/17/2017 Full Committee Hearing: “Improving America’s Transportation Infrastructure: The Road Forward.”
- 7/12/2017 Full Committee Hearing: “The Use of TIFIA and Innovative Financing in Improving Infrastructure to Enhance Safety, Mobility, and Economic Opportunity”
- 12/20/2017 Subcommittee Hearing: “Freight Movement: Assessing Where We Are Now And Where We Need To Go.”
- 3/1/2018 Full Committee Hearing: “The Administration’s Framework for Rebuilding Infrastructure in America.”
- 6/13/2018 Full Committee Hearing: “Innovation and America’s Infrastructure: Examining the Effects of Emerging Autonomous Technologies on America’s Roads and Bridges.”
- 6/11/2018 Full Committee Hearing: “The Long-term Value to U.S. Taxpayers of Low-cost Federal Infrastructure Loans.”
- 11/28/2018 Full Committee Hearing: “Addressing America’s Surface Transportation Infrastructure Needs.”
- 3/6/2019 Full Committee Hearing: “The Economic Benefits of Highway Infrastructure Investment and Accelerated Project Delivery.”
- 7/10/2019 Full Committee Hearing: “Investing in America’s Surface Transportation Infrastructure: The Need for a Multi-Year Reauthorization Bill.”
- 6/4/2020 Full Committee Hearing: “Infrastructure: The Road to Recovery”
- 2/24/2021 Full Committee Hearing: “Building Back Better: Investing in Transportation while Addressing Climate Change, Improving Equity, and Fostering Economic Growth and Innovation.”
- 4/14/2021 Full Committee Hearing: “Long-term Solvency of the Highway Trust Fund: Lessons Learned from the Surface Transportation System Funding Alternatives Program and Other User-based Revenue Solutions, and How Funding Uncertainty Affects the Highway Programs.”
- 5/11/2021 Transportation and Infrastructure Subcommittee Hearing: “Equity in Transportation Infrastructure: Connecting Communities, Removing Barriers, and Repairing Networks across America.”

#### COMMITTEE CONSIDERATION AND ROLLCALL VOTES

On May 26, 2021 the Committee on Environment and Public Works met and considered the Surface Transportation Reauthorization Act of 2021. During the business meeting the Committee approved by unanimous consent a Carper-Capito-Cardin-Cramer substitute amendment to serve as the base text. The substitute amendment made modifications as well as technical changes to the text. Additionally, the Committee approved an amendment offered by Senators Markey and Sullivan to create a program for connecting active transportation networks, which was adopted by a roll call vote of 11–9 (*yees*: Cardin, Carper, Duckworth, Kelly, Markey, Merkley, Padilla, Sanders, Stabenow, Sullivan, and Whitehouse; *nays*: Boozman, Capito, Cramer, Ernst, Graham, Inhofe, Lummis, Shelby, and Wicker).

The Committee also approved by unanimous consent the following amendments *en bloc*.

Cardin #3—An amendment to add stormwater-related projects under the PROTECT grants program.

Cardin #6 (modified)—An amendment to add special consideration for multistate corridors under the nationally significant freight and highway projects (INFRA) grant program.

Carper #2—An amendment to extend the loan repayment terms for TIFIA to the lesser of 75 years or 75 percent of an asset’s useful life.

Cramer #1 (modified)—An amendment to add special consideration for projects in states where no INFRA grants have previously been awarded.

Duckworth #2 (modified)—An amendment to increase from 2 percent to 8 percent the amount of apportioned funding that a state can use for inspections and data collection for a state’s railway-highway crossing program.

Duckworth #5—An amendment to apply requirements for Federal Aviation Administration-funded projects to airport-related projects under the TIFIA Program.

Ernst #4—An amendment to require the Secretary of Transportation to submit to Congress an annual report listing every project funded by the Department of Transportation that is \$1 billion or more over budget or five years or more behind schedule.

Graham #1—An amendment to include Union Country, South Carolina under the definition of “Appalachian region” covered by the Appalachian Regional Commission.

Inhofe #3—An amendment to reserve 15 percent of funds made available for the Rural Surface Transportation Grant Program for eligible projects in states with higher than average rural roadway lane departure fatalities.

Kelly #1—An amendment to establish a working group to study the use of aggregate resources in federal transportation projects and how the proximity of aggregate resources impacts costs and the environment.

Lummis #2—An amendment to expand the eligibility of the Advanced Transportation and Congestion Management Technologies Deployment Program to include retrofitting dedicated short-range communications technology deployed as part of an existing pilot program to cellular vehicle-to-everything technology.

Lummis #3—An amendment to modify eligibility under the carbon-reduction program to include dedicated short-range communications technology deployed as part of an existing pilot program to cellular vehicle-to-everything technology.

Merkley #2 (modified)—An amendment to establish a program to provide grants to carry out activities that benefit pollinators on roadsides and highway rights-of-way, and authorizes for appropriations \$2 million for each of fiscal years 2022 through 2026 for the program.

Padilla #2—An amendment to allow blood transport vehicles transporting blood between a collection point and a hospital or storage facility to use HOV lanes.

Padilla #4—An amendment to address resiliency to wildfires under the PROTECT grant program and make vegetation management activities in transportation rights-of-way an eligible activity.

Sullivan #1 (modified)—An amendment to authorize for appropriations \$20 million for each of fiscal years 2022 through 2026 for the Denali Access System Program.

Sullivan #2—An amendment to allow States to use Surface Transportation Block Grant funding for rural barge landing, dock, and waterfront infrastructure projects in locations that are off the road system.

Whitehouse #1—An amendment to make technical changes to the Bridge Investment Program to enable large bridge projects to receive funding in the first year of the program.

Wicker #1—An amendment to designate an additional high priority corridor for future designation as part of the Interstate Highway System that generally follows Route 7 from Interstate 55 near Grenada, Mississippi to the logical terminum on Interstate 22 near Holly Springs, Mississippi.

The Committee on Environment and Public Works ordered the amended legislative text reported favorably as an original bill to the Senate by a roll call vote of 20–0 (*yeas*: Boozman, Capito, Cardin, Carper, Cramer, Duckworth, Ernst, Graham, Inhofe, Kelly, Lummis, Markey, Merkley, Padilla, Sanders, Shelby, Stabenow, Sullivan, Whitehouse, and Wicker) with a quorum present.

#### REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that the regulatory impact of S. 1931 is expected to be minimal. This will not directly regulate individuals or business or create any additional regulatory burdens, and will not have any adverse effect on the personal privacy of individuals.

#### CONGRESSIONALLY DIRECTED SPENDING

In compliance with section 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in S. 1931 meet the definition of congressional directed spending items under the rule.

#### MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee on Environment and Public Works notes that the Congressional Budget Office found that S. 1931 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

#### COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report, if available. That statement follows:



U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 15, 2021.*

Hon. TOM CARPER,  
*Chairman, Committee on Environment and Public Works,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1931, the Surface Transportation Reauthorization Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>At a Glance</b>			
<b>S. 1931, Surface Transportation Reauthorization Act of 2021</b>			
As reported by the Senate Committee on Environment and Public Works on May 27, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	31	33
Revenues <sup>a</sup>	0	-1	-8
Increase or Decrease (-) in the Deficit	0	32	41
Spending Subject to Appropriation (Outlays)	0	212,335	295,233
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
a. Estimates provided by the staff of the Joint Committee on Taxation.			
<b>The bill would</b>			
<ul style="list-style-type: none"> <li>• Provide \$304 billion in contract authority for the Federal-Aid Highway Program over the 2022-2026 period (\$3.2 billion would be exempt from obligation limitations)</li> <li>• Authorize \$300 billion in obligation limitations for the Federal-Aid Highway Program over the 2022-2026 period</li> <li>• Authorize appropriations for other transportation-related projects and activities</li> </ul>			
<b>Estimated budgetary effects would mainly stem from</b>			
<ul style="list-style-type: none"> <li>• Spending of amounts authorized in the bill</li> <li>• Increases in the rate at which previously provided funds are spent within the Transportation Infrastructure Finance and Innovation Act (TIFIA) program</li> <li>• Decreases in revenues because of states' increased use of tax-exempt bonds</li> </ul>			
<b>Areas of significant uncertainty include</b>			
<ul style="list-style-type: none"> <li>• Estimating the loan volume that would be dedicated to airport projects through the TIFIA program</li> </ul>			
Detailed estimate begins on the next page.			

Bill summary: S. 1931 would provide budget authority over the 2022–2026 period for the Department of Transportation (DOT) to continue operating the Federal-Aid Highway Program, which is funded from the Highway Trust Fund. The bill also would authorize the appropriation of funds for certain other transportation programs administered by DOT, the Department of the Interior, and other federal agencies.

Estimated Federal cost: The estimated budgetary effect of S. 1931 is shown in Table 1. The costs of the legislation fall within budget functions 400 (transportation) and 450 (community and regional development).

Basis of estimate: For this estimate, CBO assumes that S. 1931 will be enacted near the end of 2021 and that the authorized and estimated amounts will be provided for each year, beginning in fiscal year 2022. Outlays are based on the historical rate of spending for the affected programs.

### *Background*

The Federal-Aid Highway Program is an umbrella term for the separate highway programs administered by DOT's Federal Highway Administration. Those programs focus almost entirely on highway construction, and they generally do not support operations (such as state employee salaries or fuel costs) or routine maintenance (such as mowing roadway fringes or filling potholes). Historically, the program has been funded by contract authority (a mandatory form of budget authority) provided in multiple-year authorizations. Most outlays from that contract authority have been controlled by obligation limitations, provisions that restrict or reduce the availability of budget authority that would have become available under another law. Those limitations are provided in annual appropriation acts and therefore are classified as discretionary.<sup>1</sup> Some outlays of contract authority are specifically exempt from obligation limitations and are therefore classified as mandatory.

Consistent with rules in the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's baseline incorporates the assumption that the amount of contract authority provided in the final year of the Federal-Aid Highway Program's authorization continues in each subsequent year. Therefore, CBO's estimates for authorizing legislation containing contract authority and for the outlays from contract authority exempt from obligation limitations are relative to amounts in its baseline projections.

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<sup>1</sup>For more information on the split budgetary classification of surface transportation programs funded from the Highway Trust Fund see Congressional Budget Office, *The Highway Trust Fund and the Treatment of Surface Transportation Programs in the Federal Budget* (June 2014), [www.cbo.gov/publication/45416](http://www.cbo.gov/publication/45416).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 1931

	By fiscal year, millions of dollars—												
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2021– 2026	2021– 2031
<b>INCREASES IN DIRECT SPENDING</b>													
Contract Authority Subject to Obligation Limitations: <sup>a</sup>													
Estimated Contract Authority: <sup>b</sup>	0	11,107	12,399	13,730	14,948	16,291	16,291	16,291	16,291	16,291	16,291	68,475	149,931
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
Airport Loans:													
Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	8	14	7	3	1	1	0	0	0	0	31
Estimated Revenues	0	*	*	*	*	–1	–1	–1	–1	–2	–2	–1	–8
Effect on the Deficit	0	*	8	14	7	4	2	2	1	2	2	2	41
<b>NET INCREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES</b>													
	0	*	8	14	7	4	2	2	1	2	2	2	32
<b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>													
Obligation Limitations for the Federal-Aid Highway Programs:													
Obligation Limitations <sup>c</sup>	0	57,473	58,765	60,096	61,314	62,657	0	0	0	0	0	0	300,305
Estimated Outlays	0	14,368	38,255	47,738	51,656	55,055	41,966	17,781	9,138	6,710	4,295	207,072	286,962
Other Authorized Programs:													
Estimated Authorization	0	1,691	1,728	1,740	1,762	1,789	*	*	*	*	*	*	8,709
Estimated Outlays	0	291	814	1,162	1,423	1,571	1,328	821	489	250	117	5,262	8,270
Total Changes:													
Estimated Budgetary Resources	0	59,164	60,492	61,835	63,076	64,446	*	*	*	*	*	* 309,014	309,017
Estimated Outlays	0	14,659	39,069	48,901	53,079	56,626	43,294	18,601	9,627	6,960	4,411	212,335	295,233

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation. Components may not sum to totals because of rounding. \* = between –\$500,000 and \$500,000.

<sup>a</sup>The Congress and the Administration have agreed upon a unique budgetary treatment for the Federal-Aid Highway Program: Authorizing laws provide contract authority (allowing the program to obligate funds in advance of an appropriation act) but outlays of that authority are generally considered discretionary because they are controlled by obligation limitations in an annual appropriation act. (Obligation limitations are provisions of a law or legislation that restrict or reduce the availability of budget authority that would have become available under another law.) Under current law (and under S. 1931), a portion of the program's contract authority is exempt from those limitations and therefore results in mandatory outlays.

<sup>b</sup>Consistent with rules in the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's estimates are constructed under an assumption that the mandatory budget authority provided in 2026, the final year of the bill's authorization, would continue indefinitely. See Table 2 for more details on the change in contract authority under S. 1931 relative to CBO's baseline projections.

<sup>c</sup>The Deficit Control Act does not require CBO to extend amounts authorized to be appropriated beyond the expiration date of such an authorization. Consequently, CBO has not estimated obligation limitations beyond 2026.

However, the Deficit Control Act does not require CBO to extend expiring authorizations of appropriations. Consequently, CBO does not project obligation limitations and the associated discretionary spending beyond the period of authorization listed in proposed legislation.

*Direct Spending*

CBO estimates that enacting S. 1931 would increase mandatory budget authority by roughly \$150 billion and increase direct spending outlays by \$33 million over the 2021–2031 period, relative to the amounts in its baseline projections.

Contract Authority Subject to Obligation Limitations. S. 1931 would provide contract authority for the Federal-Aid Highway Program over the 2022–2026 period. The change in contract authority relative to CBO’s baseline is displayed in Table 2 and described below. Because of the program’s split budgetary classification, most outlays stemming from that authority are classified as discretionary; a small amount is classified as mandatory.

The most recent authorization for surface transportation (division B of the Continuing Appropriations Act, 2021 and Other Extensions Act) expires at the end of 2021. In keeping with the Deficit Control Act, CBO’s baseline projections are made under an assumption that the amount of contract authority in 2021, the final year of the current authorization, continues unchanged for each subsequent year. Accordingly, CBO’s baseline projections include contract authority over the 2022–2031 period that totals \$471 billion. Of that amount, \$464 billion, or roughly \$46 billion annually, is subject to obligation limitations.

Over the 2022–2026 period, S. 1931 would provide \$304 billion in contract authority—of that amount, \$300 billion would be subject to obligation limitations. CBO estimates that under S. 1931, the mandatory budget authority subject to obligation limitations of nearly \$63 billion that would be provided in 2026 (the final year of the authorization) would continue indefinitely. CBO therefore estimates that an additional \$313 billion in contract authority would be available over the 2027–2031 period, for a total of \$614 billion over the 10-year period.

CBO estimates that the amounts provided for contract authority subject to obligation limitations over the 2022–2031 period would be \$149.9 billion more than the amount in CBO’s baseline. (Because the contract authority under S. 1931 that is exempt from obligation limitations would be equal to the amount projected in CBO’s baseline for the 2022–2031 period, there would be no cost relative to the baseline.)

TABLE 2.—CONTRACT AUTHORITY SUBJECT TO OBLIGATION LIMITATIONS FOR THE FEDERAL-AID HIGHWAY PROGRAM, PROVIDED BY S. 1931, RELATIVE TO CBO’S BASELINE

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
CONTRACT AUTHORITY INCLUDED IN CBO’S BASELINE <sup>a</sup>												
Contract Authority ....	46,366	46,366	46,366	46,366	46,366	46,366	46,366	46,366	46,366	46,366	231,830	463,660

TABLE 2.—CONTRACT AUTHORITY SUBJECT TO OBLIGATION LIMITATIONS FOR THE FEDERAL-AID HIGHWAY PROGRAM, PROVIDED BY S. 1931, RELATIVE TO CBO'S BASELINE—Continued

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
CONTRACT AUTHORITY UNDER S. 1931												
Contract Authority ....	57,473	58,765	60,096	61,314	62,657	0	0	0	0		300,305	300,305
Contract Authority: Assumed to Continue	0	0	0	0	0	62,657	62,657	62,657	62,657	62,657	0	313,286
Total Contract Authority ....	57,473	58,765	60,096	61,314	62,657	62,657	62,657	62,657	62,657	62,657	300,305	613,591
INCREASE IN CONTRACT AUTHORITY UNDER S. 1931, RELATIVE TO CBO'S BASELINE												
Increase in Contract Authority <sup>b</sup> .....	11,107	12,399	13,730	14,948	16,291	16,291	16,291	16,291	16,291	16,291	68,475	149,931

Components may not sum to totals because of rounding.  
 S. 1931 also would authorize about \$3.2 billion in contract authority that would be exempt from obligation limitations over the 2022–2026 period. Those amounts are equal to the amounts included in CBO's baseline projections for that period.  
<sup>a</sup>Consistent with rules in the Balanced Budget and Deficit Control Act of 1985, CBO's baseline incorporates the assumption that the amount of contract authority provided in the final year of the Federal-Aid Highway Program's authorization continues in each subsequent year. Under the current surface transportation authorization (division B of the Continuing Appropriations Act, 2021 and Other Extensions Act), contract authority is provided for the program through 2021. S. 1931 would provide that authority through 2026.  
<sup>b</sup>These amounts are the same as those shown in Table 1 under "Increases in Direct Spending" for estimated contract authority subject to obligation limitations.

**Airport Loans.** S. 1931 would expand the types of projects eligible to receive loans under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program to include certain construction projects at airports. Prospective borrowers for such airport projects would need to submit a letter of interest to DOT and receive confirmation of eligibility before October 1, 2025, for a project to receive funding under the program.

S. 1931 would provide contract authority each year over the 2022–2026 period to subsidize TIFIA loans for surface transportation and airport projects alike. However, under current law, the program maintains a large balance of unobligated contract authority from previous authorization acts. S. 1931 would allow DOT to use those balances to subsidize TIFIA loans for airport construction projects authorized under the bill. CBO estimates that a portion of those balances that would not have been spent over the next 10 years under current law—\$33 million—would be used to subsidize new TIFIA loans for such projects over the 2022–2031 period.

*Revenues*

S. 1931 would reauthorize the State Infrastructure Bank program through 2026. States use infrastructure banks to finance transportation projects by lending money to local governments or by repaying bonds.

As under current law, S. 1931 would allow states to deposit some of the funds apportioned and allocated to the state from the Federal-Aid Highway Program into state infrastructure banks. S. 1931 would increase such funding to states, so more would be available, relative to CBO's baseline, for such deposits.

The staff of the Joint Committee on Taxation estimates that enacting this provision would increase the states' use of tax-exempt bonds and therefore decrease federal revenues by \$8 million over the 2022–2031 period.

*Spending Subject to Appropriation*

Assuming appropriation of the specified and estimated amounts, CBO estimates that implementing S. 1931 would cost \$212.3 billion over the 2022–2026 period (see Table 3). That amount includes spending from the Highway Trust Fund and for programs operated by DOT and other federal agencies.

**Obligation Limitations for the Federal-Aid Highway Program.** Historically, the contract authority provided in transportation legislation has been controlled by limitations on obligations contained in annual appropriation acts. CBO expects that the practice would continue under S. 1931. The bill would authorize obligation limitations totaling \$300 billion over the 2022–2026 period. CBO estimates that obligating amounts equal to those limitations would result in outlays of \$207 billion over the 2022–2026 period.

**Bridge Investment Program.** In addition to contract authority provided from the Highway Trust Fund, section 1101 would authorize the appropriation of \$3.3 billion for DOT to implement the proposed Bridge Investment Program. Assuming appropriation of the authorized amounts, CBO estimates that outlays would total \$2.2 billion over the 2021–2026 period.

**Tribal Transportation.** Over the 2022–2026 period, section 1101 also would authorize the appropriation of \$300 million annually for the Nationally Significant Federal Lands and Tribal Projects Program, section 1128 would authorize the appropriation of \$30 million annually for the Tribal-High Priority Projects Program, and section 4005 would authorize appropriations totaling \$270 million for the Bureau of Indian Affairs' Road Maintenance Program. The bill also would authorize the appointment of a new Assistant Secretary for Tribal Government Affairs within the Department of the Interior to oversee road maintenance and other tribal transportation activities. CBO estimates that implementing those provisions would cost \$1.2 billion over the 2021–2026 period.

**Pedestrian-Focused Infrastructure.** Section 1529 would authorize the appropriation of \$200 million annually over the 2022–2026 period for DOT to provide competitive grants for state and local governments to plan and construct safe and connected networks for active transportation (walking or cycling). Also, section 1101 would authorize \$100 million annually over that same period for DOT to provide competitive grants to state and local governments and non-profit entities to increase tree cover, reduce pavement heat, and increase pavement permeability to mitigate flooding in urban areas. Finally, section 1502 would authorize the appropriation of \$5 million annually over the 2022–2026 period for DOT to provide grants to state and local governments to install raised concrete or metal posts on sidewalks that will slow or stop motor vehicles from leaving a roadway. CBO estimates that implementing those provisions would cost \$602 million over the 2021–2026 period.

**Appalachian Regional Commission.** Section 1506 would authorize the appropriation of \$200 million a year over the 2022–2026 period for the Appalachian Regional Commission. In 2021, \$180 million

was appropriated for that purpose; CBO estimates that implementing the provision would cost \$488 million over the 2021–2026 period.

Transportation Centers of Excellence. Section 1101 would authorize the appropriation of \$100 million annually from 2022 through 2026 for grants to academic institutions or consortia selected by DOT to study and promote resilient transportation infrastructure. CBO estimates that implementing the provision would cost \$313 million over the 2021–2026 period.

Roadside Plant Control. Section 1522 would authorize the appropriation of \$50 million annually over the 2022–2026 period for grants to states to eliminate or control invasive plant species adjacent to highways, railroads, or other surface transportation routes. Section 1528 would authorize the appropriation of \$2 million annually over the 2022–2026 period to provide grants to states to plant native and locally appropriate species along roadsides. CBO estimates that implementing those sections would cost \$177 million over the 2021–2026 period.

TABLE 3.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1931

	By fiscal year, millions of dollars—						
	2021	2022	2023	2024	2025	2026	2021–2026
Obligation Limitations for the Federal-Aid Highway Program:							
Obligation Limitation .....	0	57,473	58,765	60,096	61,314	62,657	300,305
Estimated Outlays .....	0	14,368	38,255	47,738	51,656	55,055	207,073
Bridge Investment Program:							
Authorization .....	0	600	640	650	675	700	3,265
Estimated Outlays .....	0	150	406	515	561	605	2,237
Tribal Transportation:							
Authorization .....	0	380	382	384	386	388	1,920
Estimated Outlays .....	0	85	225	285	312	337	1,245
Pedestrian-Focused Infrastructure:							
Authorization .....	0	305	305	305	305	305	1,525
Estimated Outlays .....	0	1	18	94	215	275	602
Appalachian Regional Commission:							
Authorization .....	0	200	200	200	200	200	1,000
Estimated Outlays .....	0	22	62	104	140	160	488
Transportation Centers of Excellence:							
Authorization .....	0	100	100	100	100	100	500
Estimated Outlays .....	0	10	35	75	95	98	313
Roadside Plant Control:							
Authorization .....	0	52	52	52	52	52	260
Estimated Outlays .....	0	5	26	42	52	52	177
Pilot Programs:							
Authorization .....	0	23	23	23	23	23	113
Estimated Outlays .....	0	6	19	22	23	23	92
Denali Commission:							
Authorization .....	0	20	20	20	20	20	100
Estimated Outlays .....	0	8	16	20	20	20	84
Alaska Highway:							
Estimated Authorization .....	0	10	5	5	*	*	20
Estimated Outlays .....	0	3	6	5	4	1	19
Studies and Reports:							
Estimated Authorization .....	0	1	1	1	1	1	6
Estimated Outlays .....	0	1	1	1	1	1	6
Total Changes:							
Estimated Authorization .....	0	59,164	60,492	61,835	63,076	64,446	309,013
Estimated Outlays .....	0	14,659	39,069	48,901	53,079	56,626	212,334

Components may not sum to totals because of rounding; \* = between zero and \$500,000.

Pilot Programs. S. 1931 would authorize appropriations for three DOT pilot programs over the 2022–2026 period. Section 1101 would



authorize the appropriation of \$15 million annually for grants to state and local governments and private entities to study novel highway construction or use issues, section 3005 would authorize the appropriation of \$5 million annually for research on emerging transportation technologies, and section 3004 would authorize the appropriation of \$2.5 million annually to better integrate data from DOT, the National Weather Service, and other sources to provide real-time information on roadway conditions during severe weather. CBO estimates that implementing those provisions would cost \$92 million over the 2021–2026 period.

Denali Commission. Section 1507 would amend the Denali Commission Act of 1998 to authorize the appropriation of \$20 million annually over the 2022–2026 period to plan, design, and construct surface transportation projects in rural Alaska. CBO estimates that implementing the provision would cost \$84 million over the 2021–2026 period.

Alaska Highway. Section 1116 would authorize the use of competitive DOT grants to restore part of the Alaska Highway. Under current law, only amounts apportioned to Alaska from the Federal-Aid Highway Program can be used for that restoration.

CBO expects that Alaska would apply for other grants to supplement funding from the Federal-Aid Highway Program to complete current activities. Using information from DOT and the State of Alaska, CBO estimates that implementing that provision would cost \$19 million over the 2021–2026 period.

Studies and Reports. Several sections in the bill would authorize studies and reports on such topics as highway railroad crossings, large freight and highway projects, bridge investment, highway removal, additions to the Interstate Highway System, air quality, stormwater runoff, and road maintenance on tribal land. Using information from similar reports and studies, CBO estimates that those provisions would cost \$6 million over the 2021–2026 period.

#### *Status of the Highway Trust Fund Under S. 1931*

CBO's baseline includes a projected cumulative shortfall of \$48.7 billion at the end of 2026 in the highway account of the Highway Trust Fund. That shortfall is the amount by which revenues and other amounts credited to the fund are projected to fall short of outlays, given authorized and projected spending authority.

The obligation limitations authorized in S. 1931 for the Federal-Aid Highway Program exceed those in CBO's baseline by about \$52.3 billion over the 2022–2026 period. Based on historical spending rates associated with such obligation limitations, CBO estimates that under S. 1931, the cumulative shortfall at the end of 2026 in the highway account of the Highway Trust Fund would be \$84.8 billion (see Table 4). The bill would not affect revenues credited to the fund. Consistent with the scoring conventions for all discretionary programs, those estimates reflect the assumption that the pace of spending under S. 1931 would not be affected by the shortfall in the Highway Trust Fund.

TABLE 4.—ESTIMATED SPENDING FROM THE HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND UNDER S. 1931

	By fiscal year, millions of dollars—						
	2021	2022	2023	2024	2025	2026	2021–2026
Start-of-Year Balance .....	12,541	7,759	a	a	a	a	n.a.
Flexed Balances <sup>b</sup> .....	–1,200	–1,200	–1,200	–1,200	–1,200	–1,200	–7,200
Revenues and Interest <sup>c</sup> .....	32,914	37,794	38,347	38,233	38,168	38,135	223,590
Intragovernmental Transfers <sup>d</sup> .....	10,400	0	0	0	0	0	10,400
Outlays .....	46,896	48,501	53,136	55,839	58,579	61,134	324,084
End-of-Year Balance .....	7,759	a	a	a	a	a	n.a.
Memorandum:							
Shortfall <sup>a</sup> .....	n.a.	–4,148	–15,989	–18,806	–21,610	–24,199	–84,752

Components may not sum to totals because of rounding; n.a. = not applicable. Outlays, revenues, and interest projections are relative to CBO's baseline.

<sup>a</sup> Under current law, the Highway Trust Fund cannot incur negative balances. However, in keeping with rules in the Balanced Budget and Emergency Deficit Control Act of 1985 for constructing the baseline, this estimate for surface transportation spending incorporates the assumption that obligations presented to the Highway Trust Fund will be paid in full. The memorandum to this table shows the shortfall of fund balances, on the basis of spending amounts that are consistent with CBO's estimate for S. 1931 for the Federal-Aid Highway Program and with baseline projections for programs of the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration that are part of the highway account of the Highway Trust Fund.

<sup>b</sup> Flexed balances represent amounts transferred from the highway account to the transit account.

<sup>c</sup> Some of the taxes that are credited to the Highway Trust Fund are scheduled to expire on September 30, 2022, including taxes on tires and all but 4.3 cents of the federal tax on motor fuels. However, in keeping with the Deficit Control Act, this estimate incorporates the assumption that all such expiring taxes will continue to be collected after fiscal year 2022.

<sup>d</sup> Section 1204 of the Continuing Appropriations Act, 2021 and Other Extensions Act transferred \$10.4 billion from the general fund of the Treasury to the Highway Trust Fund.

### Uncertainty

CBO's estimate of the amount of previously provided contract authority that would be used to subsidize TIFIA loans for airport projects is subject to uncertainty. The cost could differ from CBO's estimate if the number of projects that received funding was higher or lower than CBO estimates.

**Pay-as-you-go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 5.

TABLE 5.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF S. 1931, THE SURFACE TRANSPORTATION REAUTHORIZATION ACT OF 2021, AS REPORTED BY THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS ON MAY 27, 2021

	By fiscal year, millions of dollars—												
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2021–2026	2021–2031
	NET INCREASE IN THE DEFICIT												
Pay-As-You-Go Effect .....	0	0	8	14	7	4	2	2	1	2	2	32	41
Memorandum:													
Increases in Outlays .....	0	0	8	14	7	3	1	1	0	0	0	31	33
Decreases in Revenues <sup>a</sup> .....	0	0	0	0	0	–1	–1	–1	–1	–2	–2	–1	–8

**Increase in long-term deficits:** CBO estimates that enacting S. 1931 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2032.

**Mandates:** None.

Estimate prepared by: Federal costs: Robert Reese and Madeleine Fox (Department of Transportation); Jon Sperl (Department of the Interior); Mandates: Brandon Lever.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

\* \* \* \* \*

**TITLE 23, UNITED STATES CODE — HIGHWAYS**

\* \* \* \* \*

**CHAPTER 1—FEDERAL-AID HIGHWAYS**

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TITLE 23—HIGHWAYS

[AS AMENDED THROUGH P.L. 116-344NOT283]

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

101. Definitions and declaration of policy

\* \* \* \* \*

**[105. Additional deposits into Highway Trust Fund]**

106. Project approval and oversight

\* \* \* \* \*

123. Relocation of utility facilities

124. *Bridge investment program.*

\* \* \* \* \*

**[139. Efficient environmental reviews for project decisionmaking]**

139. *Efficient environmental reviews for project decisionmaking and One Federal Decision.*

\* \* \* \* \*

[155. Repealed. Pub. L. 112-141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575]

156. Proceeds from the sale or lease of real property

157. *National Environmental Policy Act of 1969 reporting program.*

\* \* \* \* \*

170. Funding flexibility for transportation emergencies

171. *Wildlife crossings pilot program.*

172. *Wildlife-vehicle collision reduction and habitat connectivity improvement.*

173. *Rural surface transportation grant program.*

174. *State human capital plans.*

175. *Carbon reduction program.*

176. *Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.*

CHAPTER 2—OTHER HIGHWAYS

Sec.

201. Federal lands and tribal transportation programs

\* \* \* \* \*

207. Tribal transportation self-governance program

208. *Safe routes to school.*

\* \* \* \* \*

218. Alaska Highway

CHAPTER 3—GENERAL PROVISIONS

- Sec.  
 301. Freedom from tolls  
           \*          \*          \*          \*          \*          \*          \*
324. Prohibition of discrimination on the basis of sex  
**325. State assumption of responsibilities for certain programs and projects**  
           \*          \*          \*          \*          \*          \*          \*
330. Program for eliminating duplication of environmental reviews  
 331. *Evaluation of projects within an operational right-of-way.*  
 332. *Pollinator-friendly practices on roadsides and highway rights-of-way.*

CHAPTER 4—HIGHWAY SAFETY

- Sec.  
 401. Authority of the Secretary  
           \*          \*          \*          \*          \*          \*          \*
412. Agency accountability

CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

- Sec.  
 501. Definitions  
           \*          \*          \*          \*          \*          \*          \*
519. Infrastructure development  
 520. *Transportation Resilience and Adaptation Centers of Excellence.*

CHAPTER 6—INFRASTRUCTURE FINANCE

- Sec.  
 601. Generally applicable provisions  
           \*          \*          \*          \*          \*          \*          \*
610. State infrastructure bank program  
           \*          \*          \*          \*          \*          \*          \*

**§ 101. Definitions and declaration of policy**

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

(1) APPORTIONMENT.— \* \* \*

\*          \*          \*          \*          \*          \*          \*

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

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

\*          \*          \*          \*          \*          \*          \*

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

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

*(H) improvements that reduce the number of wildlife-vehicle collisions, such as wildlife crossing structures; and*

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

\* \* \* \* \*

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

**(17) NATURAL INFRASTRUCTURE.**—*The term ‘natural infrastructure’ means infrastructure that uses, restores, or emulates natural ecological processes and—*

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

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

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

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

**[(18)] (19) OPERATIONAL IMPROVEMENT.**—The term “operational improvement”—

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

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

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

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

**[(21)] (22) PUBLIC AUTHORITY.**—The term “public authority” means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality

with authority to finance, build, operate, or maintain toll or toll-free facilities.

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

(24) *Resilience.*—The term ‘resilience’, with respect to a project, means a project with the ability to anticipate, prepare for, or adapt to conditions or withstand, respond to, or recover rapidly from disruptions, including the ability—

(A)(i) to resist hazards or withstand impacts from weather events and natural disasters; or

(ii) to reduce the magnitude or duration of impacts of a disruptive weather event or natural disaster on a project; and

(B) to have the absorptive capacity, adaptive capacity, and recoverability to decrease project vulnerability to weather events or other natural disasters.

[(23)] (25) RURAL AREAS.—The term “rural areas” means all areas of a State not included in urban areas.

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

[(25)] (27) SECRETARY.—The term “Secretary” means Secretary of Transportation.

[(26)] (28) STATE.—The term “State” means any of the 50 States, the District of Columbia, or Puerto Rico.

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

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

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

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

(A) IN GENERAL.—The term “transportation systems management and operations” means integrated strategies to optimize the performance of existing infrastructure [through the implementation] through—

(i) the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system[.]; and

(ii) the consideration of incorporating natural infrastructure.

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

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

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

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

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

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

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

(b) DECLARATION OF POLICY.—

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

needs of local and interstate commerce for the national and civil defense.

\* \* \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**§ 102. Program efficiencies**

(a) ACCESS OF MOTORCYCLES.—No State or political subdivision of a State may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance. **[Nothing in this subsection]**

(b) SAVINGS PROVISION.—*Nothing in this section* shall affect the authority of a State or political subdivision of a State to regulate motorcycles for safety.

**[(b) ENGINEERING COST REIMBURSEMENT.—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years (or such longer period as the State requests and the Secretary determines to be reasonable) after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds reimbursed for the preliminary engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.]**

\* \* \* \* \*

**§ 104. Apportionment**

(a) ADMINISTRATIVE EXPENSES.—

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

- [(A) \$453,000,000 for fiscal year 2016;**
- [(B) \$459,795,000 for fiscal year 2017;**
- [(C) \$466,691,925 for fiscal year 2018;**
- [(D) \$473,692,304 for fiscal year 2019; and**
- [(E) \$480,797,689 for fiscal year 2020.]**
- (A) \$490,964,697 for fiscal year 2022;*
- (B) \$500,783,991 for fiscal year 2023;*
- (C) \$510,799,671 for fiscal year 2024;*
- (D) \$521,015,664 for fiscal year 2025; and*
- (E) \$531,435,977 for fiscal year 2026.*

\* \* \* \* \*



(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE APPORTIONMENT.—The Secretary shall distribute the amount of the base apportionment apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the surface transportation block grant program, the highway safety improvement program, the congestion mitigation and air quality improvement program, the national highway freight program, *the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176,* and to carry out section 134 as follows:

(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, **[63.7 percent]** *59.0771195921461 percent* of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(2) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—For the surface transportation block grant program, **[29.3 percent]** *28.7402203421251 percent* of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, **[7 percent]** *6.70605141316253 percent* of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

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

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

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

(4) *Congestion mitigation and air quality improvement program.*—

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

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

- (i) \$2,536,490,803 for fiscal year 2022;
- (ii) \$2,587,220,620 for fiscal year 2023;
- (iii) \$2,638,965,032 for fiscal year 2024;
- (iv) \$2,691,744,332 for fiscal year 2025; and
- (v) \$2,745,579,213 for fiscal year 2026.

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

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

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

(5) NATIONAL HIGHWAY FREIGHT PROGRAM.—

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

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

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

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

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

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

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

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

(i) \$1,373,932,519 for fiscal year 2022;

(ii) \$1,401,411,169 for fiscal year 2023;

(iii) \$1,429,439,392 for fiscal year 2024;

(iv) \$1,458,028,180 for fiscal year 2025; and

(v) \$1,487,188,740 for fiscal year 2026.

\* \* \* \* \*

[(D) METROPOLITAN PLANNING.—Of the amount set aside under this paragraph for a State, the Secretary shall use to carry out section 134 an amount determined by multiplying the set-aside amount by the proportion that—

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

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

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

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

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

(6) Metropolitan planning.—

(A) In general.—To carry out section 134, an amount determined for the State under subparagraphs (B) and (C).

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

- (i) \$ 438,121,139 for fiscal year 2022;
- (ii) \$446,883,562 for fiscal year 2023;
- (iii) \$455,821,233 for fiscal year 2024;
- (iv) \$464,937,657 for fiscal year 2025; and
- (v) \$474,236,409 for fiscal year 2026.

(C) *State share.*—For each fiscal year, the Secretary shall distribute among the States the total amount to carry out section 134 under subparagraph (B) so that each State receives an amount equal to the proportion that—

- (i) the amount apportioned to the State to carry out section 134 for fiscal year 2020; bears to
- (ii) the total amount of funds apportioned to all States to carry out section 134 for fiscal year 2020.

(7) *Carbon reduction program.*—For the carbon reduction program under section 175, 2.56266964565637 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(8) *PROTECT formula program.*—To carry out subsection (c) of the PROTECT program under section 176, 2.91393900690991 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

(c) CALCULATION OF AMOUNTS.—

(1) STATE SHARE.—For [each of fiscal years 2016 through 2020] fiscal year 2022 and each fiscal year thereafter, the amount for each State shall be determined as follows:

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

[(i) each of—

- [(I) the base apportionment;
- [(II) supplemental funds reserved under subsection (h)(1) for the national highway performance program; and
- [(III) supplemental funds reserved under subsection (h)(2) for the surface transportation block grant program; by]

(i) the base apportionment; by

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

(I) the amount of apportionments that the State received for [fiscal year 2015] fiscal year 2021; bears to

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

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

(B) *Guaranteed amounts.*—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment that is—

(i) equal to at least 95 percent of the estimated tax payments paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available that are—

(I) attributable to highway users in the State; and

(II) associated with taxes in effect on July 1, 2019, and only up to the rate those taxes were in effect on that date;

(ii) at least 2 percent greater than the apportionment that the State received for fiscal year 2021; and

(iii) at least 1 percent greater than the apportionment that the State received for the previous fiscal year.

(2) STATE APPORTIONMENT.—On October 1 of [fiscal years 2016 through 2020] fiscal year 2022 and each fiscal year thereafter, the Secretary shall apportion the sums authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134 in accordance with paragraph (1).

(d) METROPOLITAN PLANNING.—

(1) USE OF AMOUNTS.—

(A) USE.—

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

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

\* \* \* \* \*

(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) TRANSFER OF FUNDS AMONG STATES OR TO [federal highway administration] AN OPERATING ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION AN OPERATING ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to [the Federal Highway Administration]

*an operating administration of the Department of Transportation, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.*

\* \* \* \* \*

**[(h) SUPPLEMENTAL FUNDS.—**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**[(i)] (h) BASE APPORTIONMENT DEFINED.—**In this section, the term “base apportionment” [means—

(1) the combined amount] *means the combined amount authorized for appropriation for the national highway performance program under section 119, the surface transportation block grant program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national highway freight program under section 167, [and to carry out section 134; minus] the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134.*

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

\* \* \* \* \*

**§ 106. Project approval and oversight**

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—

\* \* \*

\* \* \* \* \*

(g) OVERSIGHT PROGRAM.—

(1) ESTABLISHMENT.— \* \* \*

\* \* \* \* \*

(3) PROJECT DELIVERY.—**[The Secretary]**

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

(B) *Frequency.*—

(i) *In general.*—*Except as provided in clauses (ii) and (iii), the Secretary shall carry out a review under subparagraph (A) not less frequently than once every 2 years.*

(ii) *Consultation with state.*—*The Secretary, after consultation with a State, may make a determination to carry out a review under subparagraph (A) for that State less frequently than provided under clause (i).*

(iii) *Cause.*—*If the Secretary determines that there is a specific reason to require a review more frequently than provided under clause (i) with respect to a State, the Secretary may carry out a review more frequently than provided under that clause.*

\* \* \* \* \*

(h) MAJOR PROJECTS.—

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

(A) \* \* \*

\* \* \* \* \*

(3) FINANCIAL PLAN.—A financial plan—

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

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

(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the

purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; **[and]**

*(D) for a project in which the project sponsor intends to carry out the project through a public-private partnership agreement, shall include a detailed value for money analysis or similar comparative analysis for the project; and*

**[(D)]** *(E) shall assess the appropriateness of a public-private partnership to deliver the project.*

\* \* \* \* \*

**§ 108. Advance acquisition of real property**

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.— \* \* \*

\* \* \* \* \*

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

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the project for which the real property interest was acquired by the State, and the acquisition has been approved by the Secretary under **[this Act, d in compliance with section 303 of title 49, section 7 of the Endangered Species Act]** *this title*, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

\* \* \* \* \*

**§ 109. Standards**

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

(1) \* \* \*

\* \* \* \* \*

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

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

(A) \* \* \*

\* \* \* \* \*

(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State transportation departments, may develop cri-

teria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider—

\* \* \* \* \*

(E) the publication entitled “Urban Street Design Guide” of the National Association of City Transportation Officials; **[and]**

(F) the publication of the Federal Highway Administration entitled ‘Wildlife Crossing Structure Handbook: Design and Evaluation in North America’ and dated March 2011; and

**[(F)]** (G) any other material that the Secretary determines to be appropriate.

\* \* \* \* \*

**[(d) On any]**

(d) *Manual on Uniform Traffic Control Devices.*—

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

(2) *Updates.*—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and not less frequently than every 4 years thereafter, the Secretary shall update the *Manual on Uniform Traffic Control Devices*.

\* \* \* \* \*

(o) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—  
**[Projects]**

(A) *In general.*—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(B) *Local jurisdictions.*—Notwithstanding subparagraph (A), a local jurisdiction may use a roadway design guide recognized by the Federal Highway Administration and adopted by the local jurisdiction that is different from the roadway design guide used by the State in which the local jurisdiction is located for the design of projects on all roadways under the ownership of the local jurisdiction (other than a highway on the National Highway System) for which the local jurisdiction is the project sponsor, provided that the design complies with all other applicable Federal laws.

\* \* \* \* \*

(s) *Electric Vehicle Charging Stations.*—



(1) *Standards.—Electric vehicle charging infrastructure installed using funds provided under this title shall provide, at a minimum—*

(A) *non-proprietary charging connectors that meet applicable industry safety standards; and*

(B) *open access to payment methods that are available to all members of the public to ensure secure, convenient, and equal access to the electric vehicle charging infrastructure that shall not be limited by membership to a particular payment provider.*

(2) *Treatment of projects.—Notwithstanding any other provision of law, a project to install electric vehicle charging infrastructure using funds provided under this title shall be treated as if the project is located on a Federal-aid highway.*

\* \* \* \* \*

**§ 112. Letting of contracts**

(a) \* \* \*

\* \* \* \* \*

(b) **BIDDING REQUIREMENTS.—**

(1) **IN GENERAL.—** \* \* \*

\* \* \* \* \*

(2) **CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—**

(A) **GENERAL RULE.—** \* \* \*

\* \* \* \* \*

**[(F) (F) Subparagraphs]**

(F) **EXCLUSION.—**Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota.

\* \* \* \* \*

**§ 115. Advance construction**

(a) **IN GENERAL.—** \* \* \*

\* \* \* \* \*

(c) **INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—**The Secretary may approve an application for a project under this section only if the project is included in the transportation improvement program of the State developed under **[section 135(f)] section 135(g)**.

\* \* \* \* \*

**§ 117. Nationally significant freight and highway projects**

(a) **ESTABLISHMENT.—**

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

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

(A) improve the safety, efficiency, and reliability of the movement of freight and people *in and across rural and urban areas*;

\* \* \* \* \*

(F) improve roadways vital to national energy security ,  
*including highways that support movement of energy  
 equipment; and*

\* \* \* \* \*

(b) GRANT AUTHORITY.—

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

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

(3) *Grant administration.*—*The Secretary may—*

*(A) retain not more than a total of 2 percent of the funds made available to carry out this section for the National Surface Transportation and Innovative Finance Bureau to review applications for grants under this section; and*

*(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under this section.*

(c) ELIGIBLE APPLICANTS.—

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

(A) A State or a group of States.

(B) \* \* \*

\* \* \* \* \*

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

*(H) A multistate corridor organization.*

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

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

(d) ELIGIBLE PROJECTS.—

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

(A) is—

(i) \* \* \*

\* \* \* \* \*

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

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

*(v) a wildlife crossing project;*

*(vi) a surface transportation infrastructure project that—*

(I) is located within the boundaries of or functionally connected to an international border crossing area in the United States;

(II) improves a transportation facility owned by a Federal, State, or local government entity; and

(III) increases throughput efficiency of the border crossing described in subclause (I), including—

(aa) a project to add lanes;

(bb) a project to add technology; and

(cc) other surface transportation improvements; or

(vii) a project for a marine highway corridor designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor), if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

(II) is likely to reduce on-road mobile source emissions; and

\* \* \* \* \*

(2) LIMITATION.—

(A) IN GENERAL.—Not more than **[\$600,000,000]** 30 percent of the amounts made available for grants under this section for **[fiscal years 2016 through 2021, in the aggregate,]** each of fiscal years 2022 through 2026 may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—

\* \* \* \* \*

(e) SMALL PROJECTS.—

(1) IN GENERAL.—The Secretary shall reserve **[10 percent]** not less than 15 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in subsection (d)(1)(A) that do not satisfy the minimum threshold under subsection (d)(1)(B).

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

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

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

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

(C) the effect of the proposed project on safety on freight corridors with significant hazards, such as high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades.

(4) Requirement.—Of the amounts reserved under paragraph (1), not less than 30 percent shall be used for projects in rural areas (as defined in subsection (i)(3)).

\* \* \* \* \*

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

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

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

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

(4) *enhancement of freight resilience to natural hazards or disasters, including high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades;*

(5) *whether the project will improve the shared transportation corridor of a multistate corridor organization, if applicable; and*

(6) *prioritizing projects located in States in which neither the State nor an eligible entity in that State has been awarded a grant under this section.*

(i) **RURAL AREAS.**—

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

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

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

**(j) FEDERAL SHARE.**—

**(1) IN GENERAL.**—The Federal share **is**

*Federal Assistance.*—

(1) *Federal share.*—

(A) *In general.*—*Except as provided in subparagraph (B) or for a grant under subsection (q), the Federal share*

(B) *Small projects.*—*In the case of a project described in subsection (e)(1), the Federal share of the cost of the project shall be 80 percent.*

(2) **MAXIMUM FEDERAL INVOLVEMENT.**—**Other** *Except for grants under subsection (q), Federal assistance other than a grant under this section may be used to satisfy the non-Federal share of the cost of a project for which such a grant is made, except that the total Federal assistance* *that—*

(A) *for a State with a population density of not more than 80 persons per square mile of land area, based on the 2010 census, the maximum share of the total Federal assistance provided for a project receiving a grant under this section shall be the applicable share under section 120(b); and*

(B) *for a State not described in subparagraph (A), the total Federal assistance provided for a project receiving a*

grant under this section may not exceed 80 percent of the total project cost.

\* \* \* \* \*

(k) *Efficient Use of Non-Federal Funds.*—

(1) *In general.*—Notwithstanding any other provision of law and subject to approval by the Secretary under paragraph (2)(B), in the case of any grant for a project under this section, during the period beginning on the date on which the grant recipient is selected and ending on the date on which the grant agreement is signed—

(A) the grant recipient may obligate and expend non-Federal funds with respect to the project for which the grant is provided; and

(B) any non-Federal funds obligated or expended in accordance with subparagraph (A) shall be credited toward the non-Federal cost share for the project for which the grant is provided.

(2) *Requirements.*—

(A) *Application.*—In order to obligate and expend non-Federal funds under paragraph (1), the grant recipient shall submit to the Secretary a request to obligate and expend non-Federal funds under that paragraph, including—

(i) a description of the activities the grant recipient intends to fund;

(ii) a justification for advancing the activities described in clause (i), including an assessment of the effects to the project scope, schedule, and budget if the request is not approved; and

(iii) the level of risk of the activities described in clause (i).

(B) *Approval.*—The Secretary shall approve or disapprove each request submitted under subparagraph (A).

(C) *Compliance with applicable requirements.*—Any non-Federal funds obligated or expended under paragraph (1) shall comply with all applicable requirements, including any requirements included in the grant agreement.

(3) *Effect.*—The obligation or expenditure of any non-Federal funds in accordance with this subsection shall not—

(A) affect the signing of a grant agreement or other applicable grant procedures with respect to the applicable grant;

(B) create an obligation on the part of the Federal Government to repay any non-Federal funds if the grant agreement is not signed; or

(C) affect the ability of the recipient of the grant to obligate or expend non-Federal funds to meet the non-Federal cost share for the project for which the grant is provided after the period described in paragraph (1).

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

**[(l)]** (m) *TIFIA PROGRAM.*—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to

provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

**[(m)] (n) CONGRESSIONAL NOTIFICATION.—**

**(1) NOTIFICATION.—**

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

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

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

**(o) Applicant Notification.—**

**(1) In general.—***Not later than 60 days after the date on which a grant recipient for a project under this section is selected, the Secretary shall provide to each eligible applicant not selected for that grant a written notification that the eligible applicant was not selected.*

**(2) Inclusion.—***A written notification under paragraph (1) shall include an offer for a written or telephonic debrief by the Secretary that will provide—*

**(A)** *detail on the evaluation of the application of the eligible applicant; and*

**(B)** *an explanation of and guidance on the reasons the application was not selected for a grant under this section.*

**(3) Response.—**

**(A) In general.—***Not later than 30 days after the eligible applicant receives a written notification under paragraph (1), if the eligible applicant opts to receive a debrief described in paragraph (2), the eligible applicant shall notify the Secretary that the eligible applicant is requesting a debrief.*

**(B) Debrief.—***If the eligible applicant submits a request for a debrief under subparagraph (A), the Secretary shall provide the debrief by not later than 60 days after the date on which the Secretary receives the request for a debrief.*

**[(n)] [(p) REPORTS.—**

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

**[(2) COMPTROLLER GENERAL.—**

**[(A) ASSESSMENT.—**The Comptroller General of the United States shall conduct an assessment of the adminis-

trative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.

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

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

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

(p) *Reports.*—

(1) *Annual report.*—

(A) *In general.*—Notwithstanding any other provision of law, not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the project, based on any criteria established by the Secretary in accordance with this section.

(B) *Inclusions.*—The report submitted under subparagraph (A) shall specify each criterion established by the Secretary that the project meets.

(C) *Availability.*—The Secretary shall make available on the website of the Department of Transportation the report submitted under subparagraph (A).

(D) *Applicability.*—This paragraph applies to all projects described in subparagraph (A) that the Secretary selects on or after October 1, 2021.

(2) *Comptroller general.*—

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

(B) *Report.*—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and annually thereafter, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, for each project selected to receive funding under this section—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on any criteria established by the Secretary in accordance with this section.

(3) *Inspector general.*—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of

2021 and annually thereafter, the Inspector General of the Department of Transportation shall—

(A) conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section; and

(B) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department of Transportation with respect to the assessment conducted under subparagraph (A).

(q) *State Incentives Pilot Program.*—

(1) *Establishment.*—There is established a pilot program to award grants to eligible applicants for projects eligible for grants under this section (referred to in this subsection as the ‘pilot program’).

(2) *Priority.*—In awarding grants under the pilot program, the Secretary shall give priority to an application that offers a greater non-Federal share of the cost of a project relative to other applications under the pilot program.

(3) *Federal share.*—

(A) *In general.*—Notwithstanding any other provision of law, the Federal share of the cost of a project assisted with a grant under the pilot program may not exceed 50 percent.

(B) *No federal involvement.*—

(i) *In general.*—For grants awarded under the pilot program, except as provided in clause (ii), an eligible applicant may not use Federal assistance to satisfy the non-Federal share of the cost under subparagraph (A).

(ii) *Exception.*—An eligible applicant may use funds from a secured loan (as defined in section 601(a)) to satisfy the non-Federal share of the cost under subparagraph (A) if the loan is repayable from non-Federal funds.

(4) *Reservation.*—

(A) *In general.*—Of the amounts made available to provide grants under this section, the Secretary shall reserve for each fiscal year \$150,000,000 to provide grants under the pilot program.

(B) *Unutilized amounts.*—In any fiscal year during which applications under this subsection are insufficient to effect an award or allocation of the entire amount reserved under subparagraph (A), the Secretary shall use the unutilized amounts to provide other grants under this section.

(5) *Set-asides.*—

(A) *Small projects.*—

(i) *In general.*—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 10 percent for projects eligible for a grant under subsection (e).

(ii) *Requirement.*—For a grant awarded from the amount reserved under clause (i)—

(I) the requirements of subsection (e) shall apply; and



(II) the requirements of subsection (g) shall not apply.

(B) Rural projects.—

(i) In general.—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 25 percent for projects eligible for a grant under subsection (i).

(ii) Requirement.—For a grant awarded from the amount reserved under clause (i), the requirements of subsection (i) shall apply.

(6) Report to congress.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the administration of the pilot program, including—

(A) the number, types, and locations of eligible applicants that have applied for grants under the pilot program;

(B) the number, types, and locations of grant recipients under the pilot program;

(C) an assessment of whether implementation of the pilot program has incentivized eligible applicants to offer a greater non-Federal share for grants under the pilot program; and

(D) any recommendations for modifications to the pilot program.

(r) Multistate Corridor Organization Defined.—For purposes of this section, the term ‘multistate corridor organization’ means an organization of a group of States developed through cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations for a shared transportation corridor.

\* \* \* \* \*

### § 119. National highway performance program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

(b) PURPOSES.—The purposes of the national highway performance program shall be—

(1) to provide support for the condition and performance of the National Highway System;

(2) to provide support for the construction of new facilities on the National Highway System; **[and]**

(3) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in an asset management plan of a State for the National Highway System**[.]**; and

(4) to provide support for activities to increase the resiliency of the National Highway System to mitigate the cost of damages from sea level rise, extreme weather events, flooding, or other natural disasters.

(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

(1)(A) a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, or freight movement on the National Highway System; and

(B) consistent with sections 134 and 135; and

(2) for 1 or more of the following purposes:

(A) \* \* \*

\* \* \* \* \*

(Q) *Undergrounding public utility infrastructure carried out in conjunction with a project otherwise eligible under this section.*

(R) *Resiliency improvements on the National Highway System, including protective features described in subsection (k)(2).*

(S) *Implement activities to protect segments of the National Highway System from cybersecurity threats.*

(e) STATE PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(4) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

(A) \* \* \*

\* \* \* \* \*

(D) *lifecycle cost and risk management [analysis] analyses, both of which shall take into consideration extreme weather and resilience*

\* \* \* \* \*

(f) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

(1) CONDITION OF INTERSTATE SYSTEM.— \* \* \*

\* \* \* \* \*

(2) CONDITION OF NHS BRIDGES.—

(A) PENALTY.—If the Secretary determines that, for the 3-year-period preceding the date of the determination, more than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as [structurally deficient] *in poor condition*, an amount equal to 50 percent of funds apportioned to such State for fiscal year 2009 to carry out section 144 (as in effect the day before enactment of MAP-21) shall be set aside from amounts apportioned to a State for a fiscal year under section 104(b)(1) only for eligible projects on bridges on the National Highway System.

(B) RESTORATION.—The set-aside requirement for bridges on the National Highway System in a State under subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10

percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as **structurally deficient** in poor condition, as determined by the Secretary.

\* \* \* \* \*

(j) CRITICAL INFRASTRUCTURE.—

(1) CRITICAL INFRASTRUCTURE DEFINED.— \* \* \*

\* \* \* \* \*

(k) Protective Features.—

(1) *In general.*—A State may use not more than 15 percent of the funds apportioned to the State under section 104(b)(1) for each fiscal year for 1 or more protective features on a Federal-aid highway or bridge not on the National Highway System, if the protective feature is designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

(2) *Protective features described.*—A protective feature referred to in paragraph (1) includes—

(A) raising roadway grades;

(B) relocating roadways in a base floodplain to higher ground above projected flood elevation levels or away from slide prone areas;

(C) stabilizing slide areas;

(D) stabilizing slopes;

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

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

(G) replacing culverts with bridges or upsizing culverts;

(H) installing seismic retrofits on bridges;

(I) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and

(J) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding, or other natural disasters.

(3) *Savings provision.*—Nothing in this subsection limits the ability of a State to carry out a project otherwise eligible under subsection (d) using funds apportioned under section 104(b)(1).

\* \* \* \* \*

**§ 120. Federal share payable**

(a) INTERSTATE SYSTEM PROJECTS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) INCREASED FEDERAL SHARE.—

(1) CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, maintaining minimum levels of retroreflectivity of highway signs or pavement markings, traffic circles (also known as “roundabouts”), safety rest areas, pavement marking, shoulder and centerline rumble strips and stripes, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, con-

crete barrier endtreatments, breakaway utility poles, *vehicle-to-infrastructure communication equipment*, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid programs for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term “safety rest area” means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

\* \* \* \* \*

(3) INNOVATIVE PROJECT DELIVERY.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

(i) \* \* \*

\* \* \* \* \*

(v) innovative pavement materials that have a demonstrated life cycle of 75 or more years, are manufactured with reduced greenhouse gas emissions, and reduce construction-related congestion by rapidly curing;  
**【or】**

(vi) *contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction activities; or*

**【(vi)】** (vii) *contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.*

\* \* \* \* \*

(4) *Pooled funding.—Notwithstanding any other provision of law, the Secretary may waive the non-Federal share of the cost of a project or activity under section 502(b)(6) that is carried out with amounts apportioned under section 104(b)(2) after considering appropriate factors, including whether—*

(A) *decreasing or eliminating the non-Federal share would best serve the interests of the Federal-aid highway program; and*

(B) *the project or activity addresses national or regional high priority research, development, and technology transfer problems in a manner that would benefit multiple States or metropolitan planning organizations.*

\* \* \* \* \*

(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under

section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within ~~180 days~~ 270 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

\* \* \* \* \*

(4) the Federal share payable for eligible ~~permanent~~ repairs to restore damaged facilities to pre-disaster condition may amount to 90 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.

\* \* \* \* \*

*(l) Federal Share Flexibility Pilot Program.—*

*(1) Establishment.—Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a pilot program (referred to in this subsection as the ‘pilot program’) to give States additional flexibility with respect to the Federal requirements under this section.*

*(2) Program.—*

*(A) In general.—Notwithstanding any other provision of law, a State participating in the pilot program (referred to in this subsection as a ‘participating State’) may determine the Federal share on a project, multiple-project, or program basis for projects under any of the following:*

*(i) The national highway performance program under section 119.*

*(ii) The surface transportation block grant program under section 133.*

*(iii) The highway safety improvement program under section 148.*

*(iv) The congestion mitigation and air quality improvement program under section 149.*

*(v) The national highway freight program under section 167.*

*(vi) The carbon reduction program under section 175.*

*(vii) Subsection (c) of the PROTECT program under section 176.*

*(B) Requirements.—*

*(i) Maximum federal share.—Subject to clause (iii), the Federal share of the cost of an individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program may be up to 100 percent.*

(ii) *Minimum federal share.*—No individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program shall have a Federal share of 0 percent.

(iii) *Determination.*—The average annual Federal share of the total cost of all projects authorized under a program described in subparagraph (A) to which a participating State is applying the Federal share requirements under the pilot program shall be not more than the average of the maximum Federal share of those projects if those projects were not carried out under the pilot program.

(C) *Selection.*—

(i) *Application.*—A State seeking to be a participating State shall—

(I) submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require; and

(II) have in place adequate financial controls to allow the State to determine the average annual Federal share requirements under the pilot program.

(ii) *Requirement.*—For each of fiscal years 2022 through 2026, the Secretary shall select not more than 10 States to be participating States.

\* \* \* \* \*

### **§ 123. Relocation of utility facilities**

(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on any Federal-aid highway, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.

[(b) The term “utility”, for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

[(c) The term “cost of relocation”, for the purposes of this section, shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.]

#### *§ 123. Relocation of utility facilities*

(a) *Definitions.*—In this section:

(1) *Cost of relocation.*—The term ‘cost of relocation’ includes the entire amount paid by a utility properly attributable to the relocation of a utility facility, minus any increase in the value of the new facility and any salvage value derived from the old facility.

(2) *Early utility relocation project.*—The term ‘early utility relocation project’ means utility relocation activities identified by the State for performance before completion of the environmental review process for the transportation project.

(3) *Environmental review process.*—The term ‘environmental review process’ has the meaning given the term in section 139(a).

(4) *Transportation project.*—The term ‘transportation project’ means a project.

(5) *Utility facility.*—The term ‘utility facility’ means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

(6) *Utility relocation activity.*—The term ‘utility relocation activity’ means an activity necessary for the relocation of a utility facility, including preliminary and final design, surveys, real property acquisition, materials acquisition, and construction.

(b) *Reimbursement to States.*—

(1) *In general.*—If a State pays for the cost of relocation of a utility facility necessitated by the construction of a transportation project, Federal funds may be used to reimburse the State for the cost of relocation in the same proportion as Federal funds are expended on the transportation project.

(2) *Limitation.*—Federal funds shall not be used to reimburse a State under this section if the payment to the utility—

(A) violates the law of the State; or

(B) violates a legal contract between the utility and the State.

“(3) *REQUIREMENT.*—A reimbursement under paragraph (1) shall be made only if the State demonstrates to the satisfaction of the Secretary that the State paid the cost of the utility relocation activity from funds of the State with respect to transportation projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including utility relocation activities.

(4) *Reimbursement eligibility for early relocation prior to transportation project environmental review process.*—

(A) *In general.*—In addition to the requirements under paragraphs (1) through (3), a State may carry out, at the expense of the State, an early utility relocation project for a transportation project before completion of the environmental review process for the transportation project.

(B) *Requirements for reimbursement.*—Funds apportioned to a State under this title may be used to pay the costs incurred by the State for an early utility relocation

project only if the State demonstrates to the Secretary, and the Secretary finds that—

(i) the early utility relocation project is necessary to accommodate a transportation project;

(ii) the State provides adequate documentation to the Secretary of eligible costs incurred by the State for the early utility relocation project;

(iii) before the commencement of the utility relocation activities, an environmental review process was completed for the early utility relocation project that resulted in a finding that the early utility relocation project—

(I) would not result in significant adverse environmental impacts; and

(II) would comply with other applicable Federal environmental requirements;

(iv) the early utility relocation project did not influence—

(I) the environmental review process for the transportation project;

(II) the decision relating to the need to construct the transportation project; or

(III) the selection of the transportation project design or location;

(v) the early utility relocation project complies with all applicable provisions of law, including regulations issued pursuant to this title;

(vi) the early utility relocation project follows applicable financial procedures and requirements, including documentation of eligible costs and the requirements under section 109(l), but not including requirements applicable to authorization and obligation of Federal funds;

(vii) the transportation project for which the early utility relocation project was necessitated was included in the applicable transportation improvement program under section 134 or 135;

(viii) before the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the transportation project for which the early utility relocation project was necessitated; and

(ix) the transportation project that necessitated the utility relocation activity is approved for construction.

(C) Savings provision.—Nothing in this paragraph affects other eligibility requirements or authorities for Federal participation in payment of costs incurred for utility relocation activities.

(c) Applicability of Other Provisions.—Nothing in this section affects the applicability of other requirements that would otherwise apply to an early utility relocation project, including any applicable requirements under—

(1) section 138;



(2) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), including regulations under part 24 of title 49, Code of Federal Regulations (or successor regulations);

(3) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(4) an environmental review process.

§ 124. Bridge investment program

(a) Definitions.—In this section:

(1) Eligible project.—

(A) In general.—The term ‘eligible project’ means a project to replace, rehabilitate, preserve, or protect 1 or more bridges on the National Bridge Inventory under section 144(b).

(B) Inclusions.—The term ‘eligible project’ includes—

(i) a bundle of projects described in subparagraph (A), regardless of whether the bundle of projects meets the requirements of section 144(j)(5); and

(ii) a project to replace or rehabilitate culverts for the purpose of improving flood control and improved habitat connectivity for aquatic species.

(2) Large project.—The term ‘large project’ means an eligible project with total eligible project costs of greater than \$100,000,000.

(3) Program.—The term ‘program’ means the bridge investment program established by subsection (b)(1).

(b) Establishment of Bridge Investment Program.—

“(1) IN GENERAL.—There is established a bridge investment program to provide financial assistance for eligible projects under this section.

(2) Goals.—The goals of the program shall be—

(A) to improve the safety, efficiency, and reliability of the movement of people and freight over bridges;

(B) to improve the condition of bridges in the United States by reducing—

(i) the number of bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(ii) the total person miles traveled over bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(iii) the number of bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(iv) the total person miles traveled over bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(C) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects.

**(c) Grant Authority.—**

(1) *In general.*—In carrying out the program, the Secretary may award grants, on a competitive basis, in accordance with this section.

(2) *Grant amounts.*—Except as otherwise provided, a grant under the program shall be—

(A) in the case of a large project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$50,000,000; and

(B) in the case of any other eligible project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$2,500,000.

(3) *Maximum amount.*—Except as otherwise provided, for an eligible project receiving assistance under the program, the amount of assistance provided by the Secretary under this section, as a share of eligible project costs, shall be—

(A) in the case of a large project, not more than 50 percent; and

(B) in the case of any other eligible project, not more than 80 percent.

(4) *Federal share.*—

(A) *Maximum federal involvement.*—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project for which a grant is made, except that the total Federal assistance provided for a project receiving a grant under the program may not exceed the Federal share for the project under section 120.

(B) *Off-system bridges.*—In the case of an eligible project for an off-system bridge (as defined in section 133(f)(1))—

(i) Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project; and

(ii) notwithstanding subparagraph (A), the total Federal assistance provided for the project shall not exceed 90 percent of the total eligible project costs.

(C) *Federal land management agencies and tribal governments.*—Notwithstanding any other provision of law, Federal funds other than Federal funds made available under this section may be used to pay the remaining share of the cost of a project under the program by a Federal land management agency or a Tribal government or consortium of Tribal governments.

(5) *Considerations.*—

(A) *In general.*—*In awarding grants under the program, the Secretary shall consider—*

(i) *in the case of a large project, the ratings assigned under subsection (g)(5)(A);*

(ii) *in the case of an eligible project other than a large project, the quality rating assigned under subsection (f)(3)(A)(ii);*

(iii) *the average daily person and freight throughput supported by the eligible project;*

(iv) *the number and percentage of bridges within the same State as the eligible project that are in poor condition;*

(v) *the extent to which the eligible project demonstrates cost savings by bundling multiple bridge projects;*

(vi) *in the case of an eligible project of a Federal land management agency, the extent to which the grant would reduce a Federal liability or Federal infrastructure maintenance backlog;*

(vii) *geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities; and*

(viii) *the extent to which a bridge that would be assisted with a grant—*

(I) *is, without that assistance—*

(aa) *at risk of falling into or remaining in poor condition; or*

(bb) *in fair condition and at risk of falling into poor condition within the next 3 years;*

(II) *does not meet current geometric design standards based on—*

(aa) *the current use of the bridge; or*

(bb) *load and traffic requirements typical of the regional corridor or local network in which the bridge is located; or*

(III) *does not meet current seismic design standards.*

(B) *Requirement.*—*The Secretary shall—*

(i) *give priority to an application for an eligible project that is located within a State for which—*

(I) *2 or more applications for eligible projects within the State were submitted for the current fiscal year and an average of 2 or more applications for eligible projects within the State were submitted in prior fiscal years of the program; and*

(II) *fewer than 2 grants have been awarded for eligible projects within the State under the program;*

(ii) *during the period of fiscal years 2022 through 2026, for each State described in clause (i), select—*

(I) *not fewer than 1 large project that the Secretary determines is justified under the evaluation under subsection (g)(4); or*

(II) 2 eligible projects that are not large projects that the Secretary determines are justified under the evaluation under subsection (f)(3); and

(iii) not be required to award a grant for an eligible project that the Secretary does not determine is justified under an evaluation under subsection (f)(3) or (g)(4).

(6) *Culvert limitation.*—Not more than 5 percent of the amounts made available for each fiscal year for grants under the program may be used for eligible projects that consist solely of culvert replacement or rehabilitation.

(d) *Eligible Entity.*—The Secretary may make a grant under the program to any of the following:

(1) A State or a group of States.

(2) A metropolitan planning organization that serves an urbanized area (as designated by the Bureau of the Census) with a population of over 200,000.

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

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

(5) A special purpose district or public authority with a transportation function.

(6) A Federal land management agency.

(7) A Tribal government or a consortium of Tribal governments.

(8) A multistate or multijurisdictional group of entities described in paragraphs (1) through (7).

(e) *Eligible Project Requirements.*—The Secretary may make a grant under the program only to an eligible entity for an eligible project that—

(1) in the case of a large project, the Secretary recommends for funding in the annual report on funding recommendations under subsection (g)(6), except as provided in subsection (g)(1)(B);

(2) is reasonably expected to begin construction not later than 18 months after the date on which funds are obligated for the project; and

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

(f) *Competitive Process and Evaluation of Eligible Projects Other Than Large Projects.*—

(1) *Competitive process.*—

(A) *In general.*—The Secretary shall—

(i) for the first fiscal year for which funds are made available for obligation under the program, not later than 60 days after the date on which the template under subparagraph (B)(i) is developed, and in subsequent fiscal years, not later than 60 days after the date on which amounts are made available for obligation under the program, solicit grant applications for eligible projects other than large projects; and

(ii) not later than 120 days after the date on which the solicitation under clause (i) expires, conduct evaluations under paragraph (3).

(B) *Requirements.*—In carrying out subparagraph (A), the Secretary shall—

(i) develop a template for applicants to use to summarize project needs and benefits, including benefits described in paragraph (3)(B)(i); and

(ii) enable applicants to use data from the National Bridge Inventory under section 144(b) to populate templates described in clause (i), as applicable.

“(2) APPLICATIONS.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) Evaluation.—

(A) In general.—Prior to providing a grant under this subsection, the Secretary shall—

(i) conduct an evaluation of each eligible project for which an application is received under this subsection; and

(ii) assign a quality rating to the eligible project on the basis of the evaluation under clause (i).

(B) REQUIREMENTS.—In carrying out an evaluation under subparagraph (A), the Secretary shall—

(i) consider information on project benefits submitted by the applicant using the template developed under paragraph (1)(B)(i), including whether the project will generate, as determined by the Secretary—

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

(II) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

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

(IV) person and freight mobility benefits, including congestion reduction and reliability improvements;

(V) national or regional economic benefits;

(VI) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

(VII) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

(VIII) environmental benefits, including wildlife connectivity;

(IX) benefits to nonvehicular and public transportation users;

(X) benefits of using—

(aa) innovative design and construction techniques; or

(bb) innovative technologies; or

(XI) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget; and

(ii) consider whether and the extent to which the benefits, including the benefits described in clause (i), are more likely than not to outweigh the total project costs.

(g) *Competitive Process, Evaluation, and Annual Report for Large Projects.*—

(1) *In general.*—

(A) *Applications.*—*The Secretary shall establish an annual date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for a recommendation by the Secretary for funding in the next annual report under paragraph (6).*

(B) *First fiscal year.*—*Notwithstanding subparagraph (A), for the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish a date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for immediate execution of a grant agreement.*

(2) *Information required.*—*The information referred to in paragraph (1) includes—*

(A) *all necessary information required for the Secretary to evaluate the large project; and*

(B) *information sufficient for the Secretary to determine that—*

(i) *the large project meets the applicable requirements under this section; and*

(ii) *there is a reasonable likelihood that the large project will continue to meet the requirements under this section.*

(3) *Determination; notice.*—*On making a determination that information submitted to the Secretary under paragraph (1) is sufficient, the Secretary shall provide a written notice of that determination to—*

(A) *the eligible entity that submitted the application;*

(B) *the Committee on Environment and Public Works of the Senate; and*

(C) *the Committee on Transportation and Infrastructure of the House of Representatives.*

(4) *Evaluation.*—*The Secretary may recommend a large project for funding in the annual report under paragraph (6), or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, immediately execute a grant agreement for a large project, only if the Secretary evaluates the proposed project and determines that the project is justified because the project—*

(A) *addresses a need to improve the condition of the bridge, as determined by the Secretary, consistent with the goals of the program under subsection (b)(2);*

(B) *will generate, as determined by the Secretary—*

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

(ii) *in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;*

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

(iv) *person and freight mobility benefits, including congestion reduction and reliability improvements;*

(v) *national or regional economic benefits;*

(vi) *benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;*

(vii) *benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;*

(viii) *environmental benefits, including wildlife connectivity;*

(ix) *benefits to nonvehicular and public transportation users;*

(x) *benefits of using—*

(I) *innovative design and construction techniques; or*

(II) *innovative technologies; or*

(xi) *reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget;*

(C) *is cost effective based on an analysis of whether the benefits and avoided costs described in subparagraph (B) are expected to outweigh the project costs;*

(D) *is supported by other Federal or non-Federal financial commitments or revenues adequate to fund ongoing maintenance and preservation; and*

(E) *is consistent with the objectives of an applicable asset management plan of the project sponsor, including a State asset management plan under section 119(e) in the case of a project on the National Highway System that is sponsored by a State.*

(5) *Ratings.—*

(A) *In general.—The Secretary shall develop a methodology to evaluate and rate a large project on a 5-point scale (the points of which include ‘high’, ‘medium-high’, ‘medium’, ‘medium-low’, and ‘low’) for each of—*

(i) *paragraph (4)(B);*

(ii) *paragraph (4)(C); and*

(iii) *paragraph (4)(D).*

(B) *Requirement.—To be considered justified and receive a recommendation for funding in the annual report under paragraph (6), a project shall receive a rating of not less than ‘medium’ for each rating required under subparagraph (A).*

(C) *Interim methodology.—In the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish an interim methodology to evaluate and rate a large project for each of—*

(i) *paragraph (4)(B);*

(ii) *paragraph (4)(C); and*

(iii) paragraph (4)(D).

(6) *Annual report on funding recommendations for large projects.*—

(A) *In general.*—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Environment and Public Works and Appropriations of the Senate a report that includes—

(i) a list of large projects that have requested a recommendation for funding under a new grant agreement from funds anticipated to be available to carry out this subsection in the next fiscal year;

(ii) the evaluation under paragraph (4) and ratings under paragraph (5) for each project referred to in clause (i);

(iii) the grant amounts that the Secretary recommends providing to large projects in the next fiscal year, including—

(I) scheduled payments under previously signed multiyear grant agreements under subsection (j);

(II) payments for new grant agreements, including single-year grant agreements and multiyear grant agreements; and

(III) a description of how amounts anticipated to be available for the program from the Highway Trust Fund for that fiscal year will be distributed; and

(iv) for each project for which the Secretary recommends a new multiyear grant agreement under subsection (j), the proposed payout schedule for the project.

(B) *Limitations.*—

(i) *In general.*—The Secretary shall not recommend in an annual report under this paragraph a new multiyear grant agreement provided from funds from the Highway Trust Fund unless the Secretary determines that the project can be completed using funds that are anticipated to be available from the Highway Trust Fund in future fiscal years.

(ii) *General fund projects.*—The Secretary—

(I) may recommend for funding in an annual report under this paragraph a large project using funds from the general fund of the Treasury; but

(II) shall not execute a grant agreement for that project unless—

(aa) funds other than from the Highway Trust Fund have been made available for the project; and

(bb) the Secretary determines that the project can be completed using funds other than from the Highway Trust Fund that are anticipated to be available in future fiscal years.

(C) *Considerations.*—In selecting projects to recommend for funding in the annual report under this paragraph, or,



*in the case of the first fiscal year for which funds are made available for obligation for grants under the program, projects for immediate execution of a grant agreement, the Secretary shall—*

*(i) consider the amount of funds available in future fiscal years for multiyear grant agreements as described in subparagraph (B); and*

*(ii) assume the availability of funds in future fiscal years for multiyear grant agreements that extend beyond the period of authorization based on the amount made available for large projects under the program in the last fiscal year of the period of authorization.*

*(D) Project diversity.—In selecting projects to recommend for funding in the annual report under this paragraph, the Secretary shall ensure diversity among projects recommended based on—*

*(i) the amount of the grant requested; and*

*(ii) grants for an eligible project for 1 bridge compared to an eligible project that is a bundle of projects.*

*(h) Eligible Project Costs.—A grant received for an eligible project under the program may be used for—*

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

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

*(3) expenses related to the protection (as described in section 133(b)(10)) of a bridge, including seismic or scour protection.*

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

*(j) Multiyear Grant Agreements for Large Projects.—*

*(1) In general.—A large project that receives a grant under the program in an amount of not less than \$100,000,000 may be carried out through a multiyear grant agreement in accordance with this subsection.*

*(2) Requirements.—A multiyear grant agreement for a large project described in paragraph (1) shall—*

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

*(B) establish the maximum amount of Federal financial assistance for the project in accordance with paragraphs (3) and (4) of subsection (c);*

*(C) establish a payout schedule for the project that provides for disbursement of the full grant amount by not later than 4 fiscal years after the fiscal year in which the initial amount is provided;*

(D) determine the period of time for completing the project, even if that period extends beyond the period of an authorization; and

(E) attempt to improve timely and efficient management of the project, consistent with all applicable Federal laws (including regulations).

(3) *Special financial rules.*—

(A) *In general.*—A multiyear grant agreement under this subsection—

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

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

(B) *Statement of contingent commitment.*—The agreement shall state that the contingent commitment is not an obligation of the Federal Government.

(C) *Interest and other financing costs.*—

(i) *In general.*—Interest and other financing costs of carrying out a part of the project within a reasonable time shall be considered a cost of carrying out the project under a multiyear grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing.

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

(4) *Advance payment.*—Notwithstanding any other provision of law, an eligible entity carrying out a large project under a multiyear grant agreement—

(A) may use funds made available to the eligible entity under this title for eligible project costs of the large project until the amount specified in the multiyear grant agreement for the project for that fiscal year becomes available for obligation; and

(B) if the eligible entity uses funds as described in subparagraph (A), the funds used shall be reimbursed from the amount made available under the multiyear grant agreement for the project.

(k) *Undertaking Parts of Projects in Advance Under Letters of No Prejudice.*—

(1) *In general.*—The Secretary may pay to an applicant all eligible project costs under the program, including costs for an activity for an eligible project incurred prior to the date on which the project receives funding under the program if—

(A) before the applicant carries out the activity, the Secretary approves through a letter to the applicant the activity in the same manner as the Secretary approves other activities as eligible under the program;

(B) a record of decision, a finding of no significant impact, or a categorical exclusion under the National Envi-

ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued for the eligible project; and

(C) the activity is carried out without Federal assistance and in accordance with all applicable procedures and requirements.

(2) Interest and other financing costs.—

(A) In general.—For purposes of paragraph (1), the cost of carrying out an activity for an eligible project includes the amount of interest and other financing costs, including any interest earned and payable on bonds, to the extent interest and other financing costs are expended in carrying out the activity for the eligible project, except that interest and other financing costs may not be more than the cost of the most favorable financing terms reasonably available for the eligible project at the time of borrowing.

(B) Certification.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms under subparagraph (A).

(3) No obligation or influence on recommendations.—An approval by the Secretary under paragraph (1)(A) shall not—

(A) constitute an obligation of the Federal Government;

or

(B) alter or influence any evaluation under subsection (f)(3)(A)(i) or (g)(4) or any recommendation by the Secretary for funding under the program.

(l) Federally-owned Bridges.—

(1) Divestiture consideration.—In the case of a bridge owned by a Federal land management agency for which that agency applies for a grant under the program, the agency—

(A) shall consider options to divest the bridge to a State or local entity after completion of the project; and

(B) may apply jointly with the State or local entity to which the bridge may be divested.

(2) Treatment.—Notwithstanding any other provision of law, section 129 shall apply to a bridge that was previously owned by a Federal land management agency and has been transferred to a non-Federal entity under paragraph (1) in the same manner as if the bridge was never federally owned.

(m) Congressional Notification.—Not later than 30 days before making a grant for an eligible project under the program, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written notification of the proposed grant that includes—

(1) an evaluation and justification for the eligible project; and

(2) the amount of the proposed grant.

(n) Reports.—

(1) Annual report.—Not later than August 1 of each fiscal year, the Secretary shall make available on the website of the Department of Transportation an annual report that lists each eligible project for which a grant has been provided under the program during the fiscal year.

(2) GAO assessment and report.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthor-

ization Act of 2021, the Comptroller General of the United States shall—

(A) conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

(i) the adequacy and fairness of the process under which each eligible project that received a grant under the program was selected; and

(ii) the justification and criteria used for the selection of each eligible project.

(o) Limitation.—

(1) Large projects.—Of the amounts made available out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section for each of fiscal years 2022 through 2026, not less than 50 percent, in aggregate, shall be used for large projects.

(2) Unutilized amounts.—If, in fiscal year 2026, the Secretary determines that grants under the program will not allow for the requirement under paragraph (1) to be met, the Secretary shall use the unutilized amounts to make other grants under the program during that fiscal year.

(p) Tribal Transportation Facility Bridge Set Aside.—

(1) In general.—Of the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a fiscal year to carry out this section, the Secretary shall use, to carry out section 202(d)—

(A) \$16,000,000 for fiscal year 2022;

(B) \$18,000,000 for fiscal year 2023;

(C) \$20,000,000 for fiscal year 2024;

(D) \$22,000,000 for fiscal year 2025; and

(E) \$24,000,000 for fiscal year 2026.

(2) Treatment.—For purposes of section 201, funds made available for section 202(d) under paragraph (1) shall be considered to be part of the tribal transportation program.

\* \* \* \* \*

**§ 125. Emergency relief**

(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, *wildfire*, or landslide; or

\* \* \* \* \*

[(b) RESTRICTION ON ELIGIBILITY.—

[(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term “construction phase” means the phase of

physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

[(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

[(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

[(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).]

(b) *Restriction on Eligibility.*—Funds under this section shall not be used for the repair or reconstruction of a bridge that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

\* \* \* \* \*

(d) ELIGIBILITY.—

(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

(A)

(2) COST LIMITATION.— \* \* \*

\* \* \* \* \*

(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term “comparable facility” means [a facility that meets the current] a facility that—

(i) meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life[.]; and

(ii) incorporates economically justifiable improvements that will mitigate the risk of recurring damage from extreme weather, flooding, and other natural disasters.

\* \* \* \* \*

(3) Protective features.—

(A) In general.—The cost of an improvement that is part of a project under this section shall be an eligible expense under this section if the improvement is a protective feature that will mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

(B) Protective features described.—A protective feature referred to in subparagraph (A) includes—

(i) raising roadway grades;

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

(iii) stabilizing slide areas;

- (iv) stabilizing slopes;
- (v) lengthening or raising bridges to increase waterway openings;
- (vi) increasing the size or number of drainage structures;
- (vii) replacing culverts with bridges or upsizing culverts;
- (viii) installing seismic retrofits on bridges;
- (ix) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and
- (x) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

[(3)] (4) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

- (A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);
- (B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192); or
- (C) projects eligible for assistance under this section located on tribal transportation facilities, Federal lands transportation facilities, or other federally owned roads that are open to public travel (as defined in subsection (e)(1)).

\* \* \* \* \*

## § 126. Transferability of Federal-aid highway funds

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 50 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

(b) APPLICATION TO CERTAIN SET-ASIDES.—

(1) IN GENERAL.—Funds that are subject to sections 104(d) and 133(d)(1)(A) shall not be transferred under this section.

(2) FUNDS TRANSFERRED BY STATES.—Funds transferred by a State under this section of the funding [reserved for the State under section 133(h) for a fiscal year may] *set aside for a State under section 133(h) for a fiscal year*—

(A) may only come from the portion of those funds that are available for obligation in any area of the State under section 133(h)[.]; and

(B) may only be transferred if the Secretary certifies that the State—

(i) held a competition in compliance with the guidance issued to carry out section 133(h) and provided sufficient time for applicants to apply;

(ii) offered to each eligible entity, and provided on request of an eligible entity, technical assistance; and

(iii) demonstrates that there were not sufficiently suitable applications from eligible entities to use the funds to be transferred.

\* \* \* \* \*

**§ 127. Vehicle weight limitations—Interstate System**

(a) IN GENERAL.—

(1) \* \* \*

\* \* \* \* \*

(1) OPERATION OF VEHICLES ON CERTAIN KENTUCKY HIGHWAYS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) ADDITIONAL HIGHWAY SEGMENTS.—

(A) IN GENERAL.—If any segment of highway described in [clauses (i) through (iv) of this subparagraph] *clauses (i) through (v)* is designated as a route of the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a), except that such vehicle shall not exceed a gross vehicle weight of 120,000 pounds. The highway segments referred to in this paragraph are as follows:

\* \* \* \* \*

(iv) The Edward T. Breathitt (Pennyrile) Parkway (to be designated as a spur of Interstate Route 69) from Interstate 24, north to Interstate 69.

(v) *The Louie B. Nunn Cumberland Expressway (to be designated as a spur of Interstate Route 65) from the interchange with Interstate Route 65 in Barren County, Kentucky, east to the interchange with United States Highway 27 in Somerset, Kentucky.*

(u) VEHICLES IN NORTH DAKOTA.—A vehicle limited or prohibited under this section from operating on a segment of the Interstate System in the State of North Dakota may operate on such a segment if such vehicle—

- (1) has a gross vehicle weight of 129,000 pounds or less;
- (2) other than gross vehicle weight, complies with the single axle, tandem axle, and bridge formula limits set forth in subsection (a); and
- (3) is authorized to operate on such segment under North Dakota State law.

(v) *Operation of Vehicles on Certain North Carolina Highways.—If any segment in the State of North Carolina of United States Route 17, United States Route 29, United States Route 52, United States Route 64, United States Route 70, United States Route 74, United States Route 117, United States Route 220, United States Route 264, or United States Route 421 is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).*

*(w) Operation of Vehicles on Certain Oklahoma Highways.—If any segment of the highway referred to in paragraph (96) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without any regard to any requirement under this section.*

\* \* \* \* \*

**§ 129. Toll roads, bridges, tunnels, and ferries**

(a) BASIC PROGRAM.—

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.— \* \* \*

\* \* \* \* \*

(3) LIMITATIONS ON USE OF REVENUES.—

(A) IN GENERAL.—

\* \* \* \* \*

(B) ANNUAL AUDIT.—

(i) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits , *together with the results of the audit under paragraph (9)(C)*, to the Secretary.

\* \* \* \* \*

(9) EQUAL ACCESS FOR OVER-THE-ROAD BUSES.—**[An over-the-road]**

(A) *In general.*—An over-the-road; bus that serves the public shall be provided access to a toll facility under the same rates, terms, and conditions as **[public transportation buses]** *public transportation vehicles*.

(B) Reports.—

(i) *In general.*—Not later than 90 days after the date of enactment of this subparagraph, a public authority that operates a toll facility shall report to the Secretary any rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses.

(ii) *Updates.*—A public authority that operates a toll facility shall report to the Secretary any change to the rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses by not later than 30 days after the date on which the change takes effect.

(iii) *Publication.*—The Secretary shall publish information reported to the Secretary under clauses (i) and (ii) on a publicly accessible internet website.

(C) Annual audit.—

(i) *In general.*—A public authority (as defined in section 101(a)) with jurisdiction over a toll facility shall—



(I) conduct or have an independent auditor conduct an annual audit of toll facility records to verify compliance with this paragraph; and

(II) report the results of the audit, together with the results of the audit under paragraph (3)(B), to the Secretary.

(ii) *Records.*—After providing reasonable notice, a public authority described in clause (i) shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

(iii) *Noncompliance.*—If the Secretary determines that a public authority described in clause (i) has not complied with this paragraph, the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance.

(10) *High occupancy vehicle use of certain toll facilities.*—Notwithstanding section 102(a), in the case of a toll facility that is on the Interstate System and that is constructed or converted after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the public authority with jurisdiction over the toll facility shall allow high occupancy vehicles, transit, and paratransit vehicles to use the facility at a discount rate or without charge, unless the public authority, in consultation with the Secretary, determines that the number of those vehicles using the facility reduces the travel time reliability of the facility.

[(10)] (11) **DEFINITIONS.**—In this subsection, the following definitions apply:

(A) **HIGH OCCUPANCY VEHICLE; HOV.**—The term “high occupancy vehicle” or “HOV” means a vehicle with not fewer than 2 occupants.

(B) **INITIAL CONSTRUCTION.**—

(i) **IN GENERAL.**—The term “initial construction” means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

(ii) **EXCLUSIONS.**—The term “initial construction” does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

(C) **OVER-THE-ROAD BUS.**—The term “over-the-road bus” has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(D) **PUBLIC AUTHORITY.**—The term “public authority” means a State, interstate compact of States, or public entity designated by a State.

(E) **TOLL FACILITY.**—The term “toll facility” means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed under this subsection.

\* \* \* \* \*

(c) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in [the construction of ferry boats and ferry terminal facilities, whether toll or free,] *the construction of ferry boats and ferry terminal facilities (including ferry maintenance facilities), whether toll or free, and the procure-*

ment of transit vehicles used exclusively as an integral part of an intermodal ferry trip, subject to the following conditions:

\* \* \* \* \*

(d) *Congestion Relief Program.*—

(1) *Definitions.*—*In this subsection:*

(A) *Eligible entity.*—*The term ‘eligible entity’ means any of the following:*

(i) *A State, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.*

(ii) *A metropolitan planning organization, city, or municipality, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.*

(B) *Integrated congestion management system.*—*The term ‘integrated congestion management system’ means a system for the integration of management and operations of a regional transportation system that includes, at a minimum, traffic incident management, work zone management, traffic signal timing, managed lanes, real-time traveler information, and active traffic management, in order to maximize the capacity of all facilities and modes across the applicable region.*

(C) *Program.*—*The term ‘program’ means the congestion relief program established under paragraph (2).*

(2) *Establishment.*—*The Secretary shall establish a congestion relief program to provide discretionary grants to eligible entities to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas of the United States.*

(3) *Program goals.*—*The goals of the program are to reduce highway congestion, reduce economic and environmental costs associated with that congestion, including transportation emissions, and optimize existing highway capacity and usage of highway and transit systems through—*

(A) *improving intermodal integration with highways, highway operations, and highway performance;*

(B) *reducing or shifting highway users to off-peak travel times or to nonhighway travel modes during peak travel times; and*

(C) *pricing of, or based on, as applicable—*

(i) *parking;*

(ii) *use of roadways, including in designated geographic zones; or*

(iii) *congestion.*

(4) *Eligible projects.*—*Funds from a grant under the program may be used for a project or an integrated collection of projects, including planning, design, implementation, and construction activities, to achieve the program goals under paragraph (3), including—*

(A) *deployment and operation of an integrated congestion management system;*

(B) *deployment and operation of a system that implements or enforces high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing;*

(C) deployment and operation of mobility services, including establishing account-based financial systems, commuter buses, commuter vans, express operations, paratransit, and on-demand microtransit; and

(D) incentive programs that encourage travelers to car-pool, use nonhighway travel modes during peak period, or travel during nonpeak periods.

(5) Application; selection.—

(A) Application.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(B) Priority.—In providing grants under the program, the Secretary shall give priority to projects in urbanized areas that are experiencing a high degree of recurrent congestion.

(C) Federal share.—The Federal share of the cost of a project carried out with a grant under the program shall not exceed 80 percent of the total project cost.

(D) Minimum award.—A grant provided under the program shall be not less than \$10,000,000.

(6) Use of tolling.—

(A) In general.—Notwithstanding subsection (a)(1) and section 301 and subject to subparagraphs (B) and (C), the Secretary shall allow the use of tolls on the Interstate System as part of a project carried out with a grant under the program.

(B) Requirements.—The Secretary may only approve the use of tolls under subparagraph (A) if—

(i) the eligible entity has authority under State, and if applicable, local, law to assess the applicable toll;

(ii) the maximum toll rate for any vehicle class is not greater than the product obtained by multiplying—

(I) the toll rate for any other vehicle class; and  
(II) 5;

(iii) the toll rates are not charged or varied on the basis of State residency;

(iv) the Secretary determines that the use of tolls will enable the eligible entity to achieve the program goals under paragraph (3) without a significant impact to safety or mobility within the urbanized area in which the project is located; and

(v) the use of toll revenues complies with subsection (a)(3).

(C) Limitation.—The Secretary may not approve the use of tolls on the Interstate System under the program in more than 10 urbanized areas.

(7) Financial effects on low-income drivers.—A project under the program—

(A) shall include, if appropriate, an analysis of the potential effects of the project on low-income drivers; and

(B) may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

**§ 130. Railway-highway crossings**

(a) \* \* \*

\* \* \* \* \*

(e) FUNDS FOR **[Protective Devices]** RAILWAY-HIGHWAY GRADE CROSSINGS.—

(1) IN GENERAL.—

(A) SET ASIDE.—Before making an apportionment under section 104(b)(3) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, for the elimination of hazards, *the installation of protective devices at railway-highway crossings, the replacement of functionally obsolete warning devices, and as described in subparagraph (B), not less than \$245,000,000 for each of fiscal years 2022 through 2026.* **[and the installation of protective devices at railway-highway crossings at least—**

- [(i) \$225,000,000 for fiscal year 2016;**
- [(ii) \$230,000,000 for fiscal year 2017;**
- [(iii) \$235,000,000 for fiscal year 2018;**
- [(iv) \$240,000,000 for fiscal year 2019; and**
- [(v) \$245,000,000 for fiscal year 2020.]**

**[(B) INSTALLATION OF PROTECTIVE DEVICES.—At least 1/2 of the funds set aside each fiscal year under subparagraph (A) shall be available for the installation of protective devices at railway-highway crossings.]**

(B) REDUCING TRESPASSING FATALITIES AND INJURIES.—A State may use funds set aside under subparagraph (A) for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings.

\* \* \* \* \*

(f) APPORTIONMENT.—

(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A) as in effect on the day before the date of enactment of the MAP-21, and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be **[90 percent]** *100 percent* of the cost thereof.

\* \* \* \* \*

(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience

at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works and the Committee on Commerce, Science, [and Transportation,] and Transportation the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, not later than April 1, 2006, and every 2 years [thereafter,] *thereafter*, on the progress being made by the State in implementing projects to improve [railway-highway] crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the [railroad highway] *railway-highway* crossings program.

\* \* \* \* \*

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—  
 (1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

- (A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or
- (B) ~~[\$7,500]~~ \$100,000.

(k) EXPENDITURE OF FUNDS.—Not more than ~~[2 percent]~~ 8 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

\* \* \* \* \*

**§ 133. Surface transportation block grant program**

(a) ESTABLISHMENT.— \* \* \*

\* \* \* \* \*

(b) ELIGIBLE PROJECTS.—Funds apportioned to a State under section 104(b)(2) for the surface transportation block grant program may be obligated for the following:

- (1) Construction of—
  - (A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;
  - (B) ferry boats and terminal ~~[facilities eligible]~~ *facilities*—
    - (i) *that are eligible* for funding under section 129(c);
    - or
    - (ii) *that are privately or majority-privately owned, but that the Secretary determines provide a substantial public transportation benefit or otherwise meet the fore-*

*most needs of the surface transportation system described in section 101(b)(3)(D);*

\* \* \* \* \*

(E) truck parking facilities eligible for funding under section 1401 of MAP-21 (23 U.S.C. 137 note); **and**

(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA-LU (23 U.S.C. 101 note) **and**

*(G) wildlife crossing structures;*

(2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs.

(3) Environmental measures eligible under sections 119(g), 148(a)(4)(B)(xvii), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

**[(4)]** (5) Highway and transit safety infrastructure improvements and programs, including **[(railway-highway grade crossings)]** *projects eligible under section 130 and installation of safety barriers and nets on bridges.*

**[(5)]** (6) Fringe and corridor parking facilities and programs in accordance with section 137 and carpool projects in accordance with section 146.

**[(6)]** (7) Recreational trails projects eligible for funding under section 206, *including the maintenance and restoration of existing recreational trails*, pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and **[(the safe routes to school program under section 1404 of SAFETEA-LU (23 U.S.C. 402 note)]** *the safe routes to school program under section 208.*

**[(7)]** (8) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

**[(8)]** (9) Development and implementation of a State asset management plan for the National Highway System and a performance-based management program for other public roads.

**[(9)]** (10) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.

**[(10)]** (11) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of this title.

**[(11)]** (12) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.

**[(12)]** (13) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

(14) *Projects and strategies designed to reduce the number of wildlife-vehicle collisions, including project-related planning, design, construction, monitoring, and preventative maintenance.*

(15) *The installation of electric vehicle charging infrastructure and vehicle-to-grid infrastructure.*

(16) *The installation and deployment of current and emerging intelligent transportation technologies, including the ability of vehicles to communicate with infrastructure, buildings, and other road users.*

(17) *Planning and construction of projects that facilitate intermodal connections between emerging transportation technologies, such as magnetic levitation and hyperloop.*

(18) *Protective features, including natural infrastructure, to enhance the resilience of a transportation facility otherwise eligible for assistance under this section.*

(19) *Measures to protect a transportation facility otherwise eligible for assistance under this section from cybersecurity threats.*

[(13)] (20) At the request of a State, and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an eligible entity Federal credit assistance under chapter 6 with respect to a project eligible for assistance under this section.

[(14)] (21) The creation and operation by a State of an office to assist in the design, implementation, and oversight, *including conducting value for money analyses or similar comparative analyses*, after “ of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.

[(15)] (22) Any type of project eligible under this section as in effect on the day before the date of enactment of the FAST Act, including projects described under section 101(a)(29) as in effect on such day.

(23) *Rural barge landing, dock, and waterfront infrastructure projects in accordance with subsection (j).*

(24) *Projects to enhance travel and tourism.*

(c) LOCATION OF PROJECTS.—A surface transportation block grant project may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—

(1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);

(2) for a project described in [paragraphs (4) through (11)] paragraphs (5) through (15) and paragraph (23) of subsection (b);

(3) for a project described in section 101(a)(29), as in effect on the day before the date of enactment of the FAST Act; [and]

(4) for a bridge project for the replacement of a low water crossing (as defined by the Secretary) with a bridge; and

[(4)] (5) as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2) (after the [reservation] set aside of funds under subsection (h))—

(A) [the percentage specified in paragraph (6) for a fiscal year] 55 percent for each of fiscal years 2022 through 2026 shall be obligated under this section, in proportion to their relative shares of the population of the State—

(i) in urbanized areas of the State with an urbanized area population of over 200,000;

[(ii) in areas of the State other than urban areas with a population greater than 5,000; and

[(iii) in other areas of the State; and]

(ii) in urbanized areas of the State with an urbanized area population of not less than 50,000 and not more than 200,000;

(iii) in urban areas of the State with a population not less than 5,000 and not more than 49,999; and

(iv) in other areas of the State with a population less than 5,000; and

\* \* \* \* \*

[(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(iii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.]

(3) Local consultation.—

(A) Consultation with metropolitan planning organizations.—For purposes of clause (ii) of paragraph (1)(A), a State shall—

(i) establish a process to consult with all metropolitan planning organizations in the State that represent an urbanized area described in that clause; and

(ii) describe how funds allocated for areas described in that clause will be allocated equitably among the applicable urbanized areas during the period of fiscal years 2022 through 2026.

(B) Consultation with regional transportation planning organizations.—For purposes of clauses (iii) and (iv) of paragraph (1)(A), before obligating funding attributed to an area with a population less than 50,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.

\* \* \* \* \*

[(6) PERCENTAGE.—The percentage referred to in paragraph (1)(A) is—

[(A) for fiscal year 2016, 51 percent;

[(B) for fiscal year 2017, 52 percent;

[(C) for fiscal year 2018, 53 percent;

[(D) for fiscal year 2019, 54 percent; and

[(E) for fiscal year 2020, 55 percent.]

(e) OBLIGATION AUTHORITY.—

(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over



200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(2) shall make available during the period of **【fiscal years 2016 through 2020】** *fiscal years 2022 through 2026* an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(f) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term “off-system bridge” means a highway bridge or low water crossing (as defined by the Secretary) located on a public road, other than a bridge or low water crossing (as defined by the Secretary) on a Federal-aid highway.

(2) SPECIAL RULE.—

(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2013 and each fiscal year thereafter under this section, the State shall obligate for **【activities described in subsection (b)(2) for off-system bridges】** *activities described in paragraphs (1)(A) and (10) of subsection (b) for off-system bridges, projects and activities described in subsection (b)(1)(A) for the replacement of low water crossings with bridges, and projects and activities described in subsection (b)(10) for low water crossings (as defined by the Secretary)*, an amount that is not less than **【15 percent】** *20 percent 20 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.*

\* \* \* \* \*

(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a **【bridge or rehabilitation of a bridge】** *bridge, rehabilitation of a bridge, or replacement of a low water crossing (as defined by the Secretary) with a bridge* that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge or, in the case of a replacement of a low water crossing with a bridge, is determined by the Secretary on completion to have improved the safety of the location—

(g) SPECIAL RULE FOR AREAS OF **【Less Than 5,000】** LESS THAN 50,000 Population.—

**【(1) SPECIAL RULE.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under subsection (d)(1)(A)(ii) for each of fiscal years 2016 through 2020 may be obligated on roads functionally classified as minor collectors.】**

*(1) In general.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under clauses (iii) and (iv) of subsection (d)(1)(A) for each fiscal year may be obligated on—*

(A) roads functionally classified as rural minor collectors or local roads; or  
 (B) on critical rural freight corridors designated under section 167(e).

\* \* \* \* \*

(h) STP SET-ASIDE.—

(1) **Reservation of funds** *In general.*—Of the funds apportioned to a State under section 104(b)(2) for fiscal year 2022 and each fiscal year thereafter—

(A) the Secretary shall set aside an amount equal to 10 percent to carry out this subsection; and **for each fiscal year, the Secretary shall reserve an amount such that—**

**[(A) the Secretary reserves a total under this subsection of—**

**[(i) \$835,000,000 for each of fiscal years 2016 and 2017; and**

**[(ii) \$850,000,000 for each of fiscal years 2018 through 2020; and]**

**[(2) ALLOCATION WITHIN A STATE.**—Funds reserved for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

**[(A) for each fiscal year, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 50 percent; and**

**[(B) the following provisions shall not apply:**

**[(i) Paragraph (3) of subsection (d).**

**[(ii) Subsection (e).]**

(2) *Allocation within a state.*—

(A) *In general.*—*Except as provided in subparagraph (B), funds set aside for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—*

*(i) for fiscal year 2022 and each fiscal year thereafter, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 59 percent; and*

*(ii) paragraph (3) of subsection (d) shall not apply.*

(B) *Local control.*—*A State may allocate up to 100 percent of the funds referred to in subparagraph (A)(i) if—*

*(i) the State submits to the Secretary a plan that describes—*

*(I) how funds will be allocated to counties, metropolitan planning organizations, regional transportation planning organizations as described in section 135(m), or local governments;*

*(II) how the entities described in subclause (I) will carry out a competitive process to select projects for funding and report selected projects to the State;*

*(III) the legal, financial, and technical capacity of the entities described in subclause (I);*

*(IV) how input was gathered from the entities described in subclause (I) to ensure those entities*

*will be able to comply with the requirements of this subsection; and*

*(V) how the State will comply with paragraph (8); and*

*(ii) the Secretary approves the plan submitted under clause (i).*

**[(3) ELIGIBLE PROJECTS.—Funds reserved under this subsection may be obligated for projects or activities described in section 101(a)(29) or 213, as such provisions were in effect on the day before the date of enactment of the FAST Act.]**

*(3) Eligible projects.—Funds set aside under this subsection may be obligated for—*

*(A) projects or activities described in section 101(a)(29) or 213, as those provisions were in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312);*

*(B) projects and activities under the safe routes to school program under section 208; and*

*(C) activities in furtherance of a vulnerable road user safety assessment (as defined in section 148(a)).*

**(4) ACCESS TO FUNDS.—**

**[(A) IN GENERAL.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection. A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under such process in consultation with the relevant State.]**

**[(B)] (A) ELIGIBLE ENTITY DEFINED.—In this paragraph, the term “eligible entity” means—**

**(i) a local government;**

**(ii) a regional transportation authority;**

**(iii) a transit agency;**

**(iv) a natural resource or public land agency;**

**(v) a school district, local education agency, or school;**

**(vi) a tribal government;**

**(vii) a metropolitan planning organization that serves an urbanized area with a population of 200,000 or fewer;**

**[(vii)] (viii) a nonprofit entity [responsible for the administration of local transportation safety programs;] ; and**

**[(viii)] (ix) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization that serves an urbanized area with a population of over 200,000 or a State agency) that the State determines to be eligible, consistent with the goals of this subsection[.] ; and**

**(x) a State, at the request of an entity described in clauses (i) through (ix).**

**(B) Competitive process.—A State or metropolitan planning organization required to obligate funds in accordance**

with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

(C) Selection.—A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under the competitive process described in subparagraph (B) in consultation with the relevant State.

(D) Prioritization.—The competitive process described in subparagraph (B) shall include prioritization of project location and impact in high-need areas as defined by the State, such as low-income, transit-dependent, rural, or other areas.

(5) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—For each fiscal year, a State shall—

(A) obligate an amount of funds [reserved under this section] set aside under this subsection equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2), as in effect on the day before the date of enactment of MAP-21, for projects relating to recreational trails under section 206;

\* \* \* \* \*

(6) STATE FLEXIBILITY.—

(A) RECREATIONAL TRAILS.—A State may opt out of the recreational trails program under paragraph (5) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

(B) LARGE URBANIZED AREAS.—A metropolitan planning area may use not to exceed 50 percent of the funds [reserved] set aside under this subsection for an urbanized area described in subsection (d)(1)(A)(i) for any purpose eligible under subsection (b).

(C) Improving accessibility and efficiency.—

(i) In general.—A State may use an amount equal to not more than 5 percent of the funds set aside for the State under this subsection, after allocating funds in accordance with paragraph (2)(A), to improve the ability of applicants to access funding for projects under this subsection in an efficient and expeditious manner by providing—

(I) to applicants for projects under this subsection application assistance, technical assistance, and assistance in reducing the period of time between the selection of the project and the obligation of funds for the project; and

(II) funding for 1 or more full-time State employee positions to administer this subsection.

(ii) Use of funds.—Amounts used under clause (i) may be expended—

(I) directly by the State; or

(II) through contracts with State agencies, private entities, or nonprofit entities.

(7) Federal share.—

(A) Required aggregate non-federal share.—The average annual non-Federal share of the total cost of all projects for

which funds are obligated under this subsection in a State for a fiscal year shall be not less than the average non-Federal share of the cost of the projects that would otherwise apply.

(B) *Flexible financing.*—Subject to subparagraph (A), notwithstanding section 120—

(i) funds made available to carry out section 148 may be credited toward the non-Federal share of the costs of a project under this subsection if the project—

(I) is an eligible project described in section 148(e)(1); and

(II) is consistent with the State strategic highway safety plan (as defined in section 148(a));

(ii) the non-Federal share for a project under this subsection may be calculated on a project, multiple-project, or program basis; and

(iii) the Federal share of the cost of an individual project in this section may be up to 100 percent.

(C) *Requirement.*—Subparagraph (B) shall only apply to a State if the State has adequate financial controls, as certified by the Secretary, to account for the average annual non-Federal share under this paragraph.

[(7)] (8) ANNUAL REPORTS.—

(A) IN GENERAL.—Each State or metropolitan planning organization responsible for carrying out the requirements of this subsection shall submit to the Secretary an annual report that [describes] *includes*—

(i) the number of project applications received for each fiscal year, including—

(I) the aggregate cost of the projects for which applications are received; and

(II) the types of projects to be carried out, expressed as percentages of the total apportionment of the State under this subsection; and

[(ii) the number of projects selected for funding for each fiscal year, including the aggregate cost and location of projects selected.]

(ii) a list of each project selected for funding for each fiscal year, including, for each project—

(I) the fiscal year during which the project was selected;

(II) the fiscal year in which the project is anticipated to be funded;

(III) the recipient;

(IV) the location, including the congressional district;

(V) the type;

(VI) the cost; and

(VII) a brief description.

\* \* \* \* \*

(j) *Rural Barge Landing, Dock, and Waterfront Infrastructure Projects.*—

(1) *In general.*—A State may use not more than 5 percent of the funds apportioned to the State under section 104(b)(2) for

*eligible rural barge landing, dock, and waterfront infrastructure projects described in paragraph (2).*

*(2) Eligible projects.—An eligible rural barge landing, dock, or waterfront infrastructure project referred to in paragraph (1) is a project for the planning, designing, engineering, or construction of a barge landing, dock, or other waterfront infrastructure in a rural community or a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) that is off the road system.*

*(k) Projects in Rural Areas.—*

*(1) Set aside.—Notwithstanding subsection (c), in addition to the activities described in subsections (b) and (g), of the amounts apportioned to a State for each fiscal year to carry out this section, not more than 15 percent may be—*

*(A) used on eligible projects under subsection (b) or maintenance activities on roads functionally classified as rural minor collectors or local roads, ice roads, or seasonal roads; or*

*(B) transferred to—*

*(i) the Appalachian Highway System Program under 14501 of title 40; or*

*(ii) the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).*

*(2) Savings clause.—Amounts allocated under subsection (d) shall not be used to carry out this subsection, except at the request of the applicable metropolitan planning organization.*

\* \* \* \* \*

**§ 134. Metropolitan transportation planning**

(a) POLICY.—It is in the national interest—

(1) \* \* \*

\* \* \* \* \*

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) \* \* \*

\* \* \* \* \*

(3) REPRESENTATION.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) Considerations.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall

*consider the equitable and proportional representation of the population of the metropolitan planning area.*

\* \* \* \* \*

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within [an existing metropolitan planning area] *an existing urbanized area (as defined by the Bureau of the Census)* only if the Governor and the existing metropolitan planning organization determine that the size and complexity of [the existing metropolitan planning area] *the area* make designation of more than 1 metropolitan planning organization for the area appropriate.

\* \* \* \* \*

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within [a metropolitan area] *an urbanized area (as defined by the Bureau of the Census)* or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

\* \* \* \* \*

(4) *Coordination between MPOs.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.*

(5) *Savings clause.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.*

\* \* \* \* \*

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, rep-

representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) \* \* \*

\* \* \* \* \*

(D) *Use of technology.*—A metropolitan planning organization may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

\* \* \* \* \*

(p) FUNDING.—Funds apportioned under [paragraphs (5)(D) and (6) of section 104(b) of this title] section 104(b)(6) or section 5305(g) of title 49 shall be available to carry out this section.

\* \* \* \* \*

**§ 135. Statewide and nonmetropolitan transportation planning**

(a) GENERAL REQUIREMENTS.— \* \* \*

\* \* \* \* \*

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.— \* \* \*

\* \* \* \* \*

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

(i) \* \* \*

\* \* \* \* \*

(C) *Use of technology.*—A State may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

\* \* \* \* \*

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.— \* \* \*

\* \* \* \* \*

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus [operators], operators), providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

\* \* \* \* \*



(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections [5310, 5311, 5316, d 5317] 5310 and 5311 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

\* \* \* \* \*

(i) FUNDING.—Funds apportioned under [paragraphs (5)(D) and (6) of section 104(b) of this title] section 104(b)(6) and set aside under section 5305(g) of title 49 shall be available to carry out this section.

\* \* \* \* \*

**§ 138. Preservation of parklands**

(a) DECLARATION OF POLICY.—[It is declared to be]

(1) *In general.*—It is the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. [The Secretary of Transportation]

(2) *Cooperation and consultation.*—

(A) *In general.*—The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. )After the]

(B) *Timeline for approvals.*—

(i) *In general.*—The Secretary shall—

(I) provide an evaluation under this section to the Secretaries described in subparagraph (A); and

(II) provide a period of 30 days for receipt of comments.

(ii) *Assumed acceptance.*—If the Secretary does not receive comments by 15 days after the deadline under clause (i)(II), the Secretary shall assume a lack of objection and proceed with the action.

(C) *Effect.*—Nothing in subparagraph (B) affects—

(i) the requirements under—

(I) subsections (b) through (f); or

(II) the consultation process under section 306108 of title 54; or

(ii) programmatic section 4(f) evaluations, as described in regulations issued by the Secretary.

(3) *Requirement.*—After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any pro-

gram or project (other than any project for a Federal lands transportation facility) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials [unless (1) there is] *unless—*

(A) *there is no feasible and prudent alternative to the use of [such land, and (2) such program] the land; and*

(B) *the program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. [In carrying out]*

(4) STUDIES.—*In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.*

**§ 139. Efficient environmental reviews for project [decisionmaking] decisionmaking and One Federal Decision**

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

(1) AGENCY.—The term “agency” means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) Authorization.—*The term ‘authorization’ means any environmental license, permit, approval, finding, or other administrative decision related to the environmental review process that is required under Federal law to site, construct, or reconstruct a project.*

(3) Environmental document.—*The term ‘environmental document’ includes an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

[(2)] (4) ENVIRONMENTAL IMPACT STATEMENT.—The term “environmental impact statement” means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(3)] (5) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term “environmental review process” means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term “environmental review process” includes the [process for and completion of any environmental permit] *process and schedule, including a timetable for and completion of any environmental permit, ap-*

proval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

)(4) (6) LEAD AGENCY.—The term “lead agency” means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

(7) Major project.—

(A) In general.—The term ‘major project’ means a project for which—

(i) multiple permits, approvals, reviews, or studies are required under a Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) the project sponsor has identified the reasonable availability of funds sufficient to complete the project;

(iii) the project is not a covered project (as defined in section 41001 of the FAST Act (42 U.S.C. 4370m)); and

(iv)(I) the head of the lead agency has determined that an environmental impact statement is required; or

(II) the head of the lead agency has determined that an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.

(B) CLARIFICATION.—In this section, the term ‘major project’ does not have the same meaning as the term ‘major project’ as described in section 106(h).

[(5)] (8) MULTIMODAL PROJECT.—The term “multimodal project” means a project that requires the approval of more than 1 Department of Transportation operating administration or secretarial office.

[(6)] (9) PROJECT.—

(A) IN GENERAL.—The term “project” means any highway project, public transportation capital project, or multimodal project that, if implemented as proposed by the project sponsor, would require approval by any operating administration or secretarial office within the Department of Transportation.

(B) CONSIDERATIONS.—In determining whether a project is a project under subparagraph (A), the Secretary shall take into account, if known, any sources of Federal funding or financing identified by the project sponsor, including any discretionary grant, loan, and loan guarantee programs administered by the Department of Transportation.

[(7)] (10) PROJECT SPONSOR.—The term “project sponsor” means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

[(8)] (11) STATE TRANSPORTATION DEPARTMENT.—The term “State transportation department” means any statewide agency of a State with responsibility for one or more modes of transportation.

(b) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures in this section are applicable to all projects, including major projects,

for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may be applied, as requested by a project sponsor and to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.

\* \* \* \* \*

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—

(A) IN GENERAL.—The Department of Transportation, or an operating administration thereof designated by the Secretary, shall be the Federal lead agency in the environmental review process for a project.

(B) MODAL ADMINISTRATION.—If the project requires approval from more than 1 modal administration within the Department, the Secretary may designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) ENSURING COMPLIANCE.— \* \* \*

\* \* \* \* \*

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project;

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law; **[and]**

(C) to consider and respond to comments received from participating agencies on matters within the special expertise or jurisdiction of those agencies **[.] ; and]**

(D) to calculate annually the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year.

(7) Process improvements for projects.—

(A) In general.—The Secretary shall review—

(i) existing practices, procedures, rules, regulations, and applicable laws to identify impediments to meeting the requirements applicable to projects under this section; and

(ii) best practices, programmatic agreements, and potential changes to internal departmental procedures that would facilitate an efficient environmental review process for projects.

(B) Consultation.—In conducting the review under subparagraph (A), the Secretary shall consult, as appropriate, with the heads of other Federal agencies that participate in the environmental review process.

(C) Report.—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(i) the results of the review under subparagraph (A); and

(ii) an analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under this section.

(d) PARTICIPATING AGENCIES.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(8) SINGLE [nepa] ENVIRONMENTAL document.—

(A) IN GENERAL.—Except as inconsistent with paragraph (7) and except as provided in subparagraph (D), to the maximum extent practicable and consistent with Federal law, all Federal [permits] authorizations and reviews for a project shall rely on a [single environment document] single environmental document for each kind of environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.

(B) USE OF DOCUMENT.—

(i) IN GENERAL.—To the maximum extent practicable, the lead agency shall develop an [environmental document] environmental documents sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including [permits issued] authorizations by other Federal agencies.

\* \* \* \* \*

(D) Exceptions.—The lead agency may waive the application of subparagraph (A) with respect to a project if—

(i) the project sponsor requests that agencies issue separate environmental documents;

- (ii) *the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or*
- (iii) *the lead agency determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.*

\* \* \* \* \*

(10) *Timely authorizations for major projects.—*

(A) *Deadline.—Except as provided in subparagraph (C), all authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project.*

(B) *Detail.—The final environmental impact statement for a major project shall include an adequate level of detail to inform decisions necessary for the role of the participating agencies and cooperating agencies in the environmental review process.*

(C) *Extension of deadline.—The head of the lead agency may extend the deadline under subparagraph (A) if—*

- (i) *Federal law prohibits the lead agency or another agency from issuing an approval or permit within the period described in that subparagraph;*
- (ii) *the project sponsor requests that the permit or approval follow a different timeline; or*
- (iii) *an extension would facilitate completion of the environmental review and authorization process of the major project.*

\* \* \* \* \*

(g) **COORDINATION AND SCHEDULING.—**

(1) **COORDINATION PLAN.—**

(A) **IN GENERAL.—**Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.

(B) **SCHEDULE.—**

(i) **IN GENERAL.—** \* \* \*

\* \* \* \* \*

(IV) *the overall [schedule for and cost of] time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and*

(iii) **MAJOR PROJECT SCHEDULE.—***To the maximum extent practicable and consistent with applicable Federal law, in the case of a major project, the lead agency*

shall develop, in concurrence with the project sponsor, a schedule for the major project that is consistent with an agency average of not more than 2 years for the completion of the environmental review process for major projects, as measured from, as applicable—

(I) the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision; or

(II) the date on which the head of the lead agency determines that an environmental assessment is required to a finding of no significant impact.

[(D) MODIFICATION.—The lead agency may—

[(i) lengthen a schedule established under subparagraph (B) for good cause; and

[(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.]

(D) Modification.—

(i) *In general.*—Except as provided in clause (ii), the lead agency may lengthen or shorten a schedule established under subparagraph (B) for good cause.

(ii) *Exceptions.*—

(I) *Major projects.*—In the case of a major project, the lead agency may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the major project by the lead agency.

(II) *Shortened schedules.*—The lead agency may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(E) *Failure to meet deadline.*—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I)—

(i) the cooperating Federal agency shall submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall—

(I) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report under clause (i); and

(II) make the report under clause (i) publicly available on the internet.

[(E)] (F) DISSEMINATION.—A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

\* \* \* \* \*

(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

\* \* \* \* \*

(n) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(3) *Length of environmental document.*—

(A) *In general.*—Notwithstanding any other provision of law and except as provided in subparagraph (B), to the maximum extent practicable, the text of the items described in paragraphs (4) through (6) of section 1502.10(a) of title 40, Code of Federal Regulations (or successor regulations), of an environmental impact statement for a project shall be 200 pages or fewer.

(B) *Exemption.*—An environmental impact statement for a project may exceed 200 pages, if the lead agency establishes a new page limit for the environmental impact statement for that project.

\* \* \* \* \*

(p) *Accountability and Reporting for Major Projects.*—

(1) *In general.*—The Secretary shall establish a performance accountability system to track each major project.

(2) *Requirements.*—The performance accountability system under paragraph (1) shall, for each major project, track, at a minimum—

(A) the environmental review process for the major project, including the project schedule;

(B) whether the lead agency, cooperating agencies, and participating agencies are meeting the schedule established for the environmental review process; and

(C) the time taken to complete the environmental review process.

(q) *Development of Categorical Exclusions.*—

(1) *In general.*—Not later than 60 days after the date of enactment of this subsection, and every 4 years thereafter, the Secretary shall—

(A) in consultation with the agencies described in paragraph (2), identify the categorical exclusions described in section 771.117 of title 23, Code of Federal Regulations (or successor regulations), that would accelerate delivery of a



*project if those categorical exclusions were available to those agencies;*

*(B) collect existing documentation and substantiating information on the categorical exclusions described in subparagraph (A); and*

*(C) provide to each agency described in paragraph (2)—*  
*(i) a list of the categorical exclusions identified under subparagraph (A); and*

*(ii) the documentation and substantiating information under subparagraph (B).*

*(2) Agencies described.—The agencies referred to in paragraph (1) are—*

*(A) the Department of the Interior;*

*(B) the Department of the Army;*

*(C) the Department of Commerce;*

*(D) the Department of Agriculture;*

*(E) the Department of Energy;*

*(F) the Department of Defense; and*

*(G) any other Federal agency that has participated in an environmental review process for a project, as determined by the Secretary.*

*(3) Adoption of categorical exclusions.—*

*(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary provides a list under paragraph (1)(C), an agency described in paragraph (2) shall publish a notice of proposed rulemaking to propose any categorical exclusions from the list applicable to the agency, subject to the condition that the categorical exclusion identified under paragraph (1)(A) meets the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).*

*(B) Public comment.—In a notice of proposed rulemaking under subparagraph (A), the applicable agency may solicit comments on whether any of the proposed new categorical exclusions meet the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).*

\* \* \* \* \*

**§ 140. Nondiscrimination**

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary, if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide

equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

\* \* \* \* \*

#### § 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating buses on Federal-aid highways for the transportation of passengers, so as to increase the traffic capacity of the Federal-aid highways for the movement of persons, the Secretary may approve as a project on any Federal-aid highway the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities, which may include electric vehicle charging stations or natural gas vehicle refueling stations, to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

\* \* \* \* \*

(3) *Bus corridors.*—In addition to the projects described in paragraphs (1) and (2), the Secretary may approve payment from sums apportioned under paragraph (2) or (7) of section 104(b) for carrying out a capital project for the construction of a bus rapid transit corridor or dedicated bus lanes, including the construction or installation of—

- (A) traffic signaling and prioritization systems;
- (B) redesigned intersections that are necessary for the establishment of a bus rapid transit corridor;
- (C) on-street stations;
- (D) fare collection systems;
- (E) information and wayfinding systems; and

*(F) depots.*

\* \* \* \* \*  
【(i) The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out subsection (a)(2) of this section.】

**§ 143. Highway use tax evasion projects**

(a) STATE DEFINED.—In this section, the term “State” means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) FUNDING.—

(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary may deduct such sums as are necessary, not to exceed \$4,000,000 for each of fiscal years [2016 through 2020] *fiscal years 2022 through 2026*, to carry out this section.

\* \* \* \* \*

**§ 144. National bridge and tunnel inventory and inspection standards**

(a) FINDINGS AND DECLARATIONS.—

(1) FINDINGS.—Congress finds that—

(A) \* \* \*

\* \* \* \* \*

(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety , *resilience* and extended service life;

(C) to use performance-based bridge management systems to assist States in making timely investments;

(D) to ensure accountability and link performance outcomes to investment decisions; [and]

(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads[.] ; *and*

(F) *to ensure adequate passage of aquatic and terrestrial species, where appropriate.*

\* \* \* \* \*

(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

(1) \* \* \*

\* \* \* \* \*

(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation; **and**

(5) determine the cost of replacing each **structurally deficient bridge** *bridge classified as in poor condition* identified under this subsection with a comparable facility or the cost of rehabilitating the bridge**;** **and**

(6) *determine if the replacement or rehabilitation of bridges and tunnels should include measures to enable safe and unimpeded movement for terrestrial and aquatic species.*

\* \* \* \* \*

(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

(3) *Requirement.—The first revision under paragraph (2) after the date of enactment of the Surface Transportation Reauthorization Act of 2021 shall include techniques to assess passage of aquatic and terrestrial species and habitat restoration potential.*

(j) BUNDLING OF BRIDGE PROJECTS.—

(1) PURPOSE.— \* \* \*

\* \* \* \* \*

**[(6) ENGINEERING COST REIMBURSEMENT.—The provisions of section 102(b) do not apply to projects carried out under this subsection.]**

\* \* \* \* \*

**§ 147. Construction of ferry boats and ferry terminal facilities**

(a) PROGRAM.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

\* \* \* \* \*

**[(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$80,000,000 for each of fiscal years 2016 through 2020.]**

*(h) Authorization of Appropriations.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—*

- (1) *\$110,000,000 for fiscal year 2022;*
- (2) *\$112,000,000 for fiscal year 2023;*
- (3) *\$114,000,000 for fiscal year 2024;*
- (4) *\$116,000,000 for fiscal year 2025; and*
- (5) *\$118,000,000 for fiscal year 2026.*

\* \* \* \* \*

**§ 148. Highway safety improvement program**

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

(1) \* \* \*

\* \* \* \* \*

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term “highway safety improvement project” means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

- (i) correct or improve a hazardous road location or feature; or
- (ii) address a highway safety problem.

(B) INCLUSIONS.—The term “highway safety improvement project” only includes a project for 1 or more of the following:

- (i) An intersection safety improvement *that provides for the safety of all road users, as appropriate, including a multimodal roundabout.*
- (ii) \* \* \*

\* \* \* \* \*

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices *or a grade separation project.*

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

**[(viii) Construction of a traffic calming feature.]**

*(viii) Construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds.*

(ix) \* \* \*

\* \* \* \* \*

**[(xxvi) Pedestrian hybrid beacons.]**

*(xxvi) Installation or upgrades of traffic control devices for pedestrians and bicyclists, including pedestrian hybrid beacons and the addition of bicycle movement phases to traffic signals.*

**[(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.]**

**[(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).]**

*(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, including medians, pedestrian crossing islands, protected bike lanes, and protected intersection features.*

*(xxviii) A pedestrian security feature designed to slow or stop a motor vehicle.*

*(xxix) A physical infrastructure safety project not described in clauses (i) through (xxviii).*

(8) ROAD USERS.—The term “road user” means a motorist, passenger, public transportation operator or user, truck driver,

bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) *Safe system approach.*—The term ‘safe system approach’ means a roadway design—

(A) that emphasizes minimizing the risk of injury or fatality to road users; and

(B) that—

(i) takes into consideration the possibility and likelihood of human error;

(ii) accommodates human injury tolerance by taking into consideration likely accident types, resulting impact forces, and the ability of the human body to withstand impact forces; and

(iii) takes into consideration vulnerable road users.

[(9)] (10) SAFETY DATA.—

(A) IN GENERAL.—The term “safety data” means crash, roadway, and traffic data on a public road.

(B) INCLUSION.—The term “safety data” includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

(11) *Specified safety project.*—

(A) *In general.*—The term ‘specified safety project’ means a project carried out for the purpose of safety under any other section of this title that is consistent with the State strategic highway safety plan.

(B) *Inclusion.*—The term ‘specified safety project’ includes a project that—

(i) promotes public awareness and informs the public regarding highway safety matters (including safety for motorcyclists, bicyclists, pedestrians, individuals with disabilities, and other road users);

(ii) facilitates enforcement of traffic safety laws;

(iii) provides infrastructure and infrastructure-related equipment to support emergency services;

(iv) conducts safety-related research to evaluate experimental safety countermeasures or equipment; or

(v) supports safe routes to school noninfrastructure-related activities described in section 208(g)(2).

[(10)] (12) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

[(11)] (13) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

(i) \* \* \*

\* \* \* \* \*

(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

(E) considers the results of State, regional, or local transportation and highway safety planning processes;

(F) describes a program of strategies to reduce or eliminate safety hazards;

(G) includes a vulnerable road user safety assessment;

[(G)] (H) is approved by the Governor of the State or a responsible State agency;

[(H)] (I) is consistent with section 135(g); and

[(I)] (J) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

[(12)] (14) SYSTEMIC SAFETY IMPROVEMENT.—The term “systemic safety improvement” means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(15) Vulnerable road user.—The term ‘vulnerable road user’ means a nonmotorist—

(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term ‘number of non-motorized fatalities’ in section 490.205 of title 23, Code of Federal Regulations (or successor regulations); or

(B) described in the term ‘number of non-motorized serious injuries’ in that section.

(16) VULNERABLE ROAD USER SAFETY ASSESSMENT.—The term ‘vulnerable road user safety assessment’ means an assessment of the safety performance of the State with respect to vulnerable road users and the plan of the State to improve the safety of vulnerable road users as described in subsection (l).

\* \* \* \* \*

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in [(subsections (a)(11))] subsections (a)(13) and (d);

\* \* \* \* \*

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

(ii) to evaluate the effectiveness of data improvement efforts;

(iii) to link State data systems, including traffic records, with other data systems within the State;

(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

(vi) to improve the collection of data on non-motorized crashes *and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;*

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists **[(including motorcyclists), bicyclists, pedestrians,]** *vulnerable road users (including motorcyclists, bicyclists, pedestrians),* and other highway users;

\* \* \* \* \*

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; **[and]**

(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State**[,]**; *and*

*(vi) improves the ability of the State to differentiate the fatalities and serious injuries of vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;*

\* \* \* \* \*

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall establish re-



quirements for regularly recurring State updates of strategic highway safety plans.

(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

(i) \* \* \*

\* \* \* \* \*

(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Each State shall—

(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and **subsection (a)(11)** *subsection (a)(13)*; and

\* \* \* \* \*

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

(A) \* \* \*

\* \* \* \* \*

(3) *Flexible funding for specified safety projects.*—

(A) *In general.*—*To advance the implementation of a State strategic highway safety plan, a State may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out specified safety projects.*

(B) *Rule of construction.*—*Nothing in this paragraph requires a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph.*

(C) *Effect of paragraph.*—

(i) *Requirements.*—*A project carried out under this paragraph shall be subject to all requirements under this section that apply to a highway safety improvement project.*

(ii) *Other apportioned programs.*—*Nothing in this paragraph prohibits the use of funds made available under other provisions of this title for a specified safety project that is a noninfrastructure project.*

\* \* \* \* \*

(g) SPECIAL RULES.—

(1) HIGH-RISK RURAL ROAD SAFETY.— \* \* \*

\* \* \* \* \*

(3) *Vulnerable road user safety.*—If the total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of the amounts apportioned to the State under section 104(b)(3) for the following fiscal year for highway safety improvement projects to address the safety of vulnerable road users.

\* \* \* \* \*

(l) *Vulnerable Road User Safety Assessment.*—

(1) *In general.*—Not later than 2 years after the date of enactment of this subsection, each State shall complete a vulnerable road user safety assessment.

(2) *Contents.*—A vulnerable road user safety assessment under paragraph (1) shall include—

(A) a quantitative analysis of vulnerable road user fatalities and serious injuries that—

(i) includes data such as location, roadway functional classification, design speed, speed limit, and time of day;

(ii) considers the demographics of the locations of fatalities and serious injuries, including race, ethnicity, income, and age; and

(iii) based on the data, identifies areas as ‘high-risk’ to vulnerable road users; and

(B) a program of projects or strategies to reduce safety risks to vulnerable road users in areas identified as high-risk under subparagraph (A)(iii).

(3) *Use of data.*—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall use data from the most recent 5-year period for which data is available.

(4) *Requirements.*—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall—

(A) take into consideration a safe system approach; and

(B) consult with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under paragraph (2)(A)(iii).

(5) *Update.*—A State shall update the vulnerable road user safety assessment of the State in accordance with the updates required to the State strategic highway safety plan under subsection (d).

(6) *Requirement for transportation system access.*—The program of projects developed under paragraph (2)(B) may not degrade transportation system access for vulnerable road users.

(7) *Guidance.*—

(A) *In general.*—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop guidance for States to carry out this subsection.

(B) *Consultation.*—In developing the guidance under this paragraph, the Secretary shall consult with the States and relevant safety stakeholders.

\* \* \* \* \*

(i) *STATE PERFORMANCE TARGETS.*—If the Secretary determines that a State has not met or made significant progress toward meet-

ing the safety performance targets of the State established under section 150(d), the State shall—

(1) \* \* \*

\* \* \* \* \*

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State, an implementation plan that—

(A) \* \* \*

\* \* \* \* \*

(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the [safety safety] *safety* performance targets of the State; and

\* \* \* \* \*

**§ 149. Congestion mitigation and air quality improvement program**

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in [subsection (d)] *subsections (d) and (m)(1)(B)(ii)*, a State may obligate funds apportioned to it under section 104(b)(4) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

\* \* \* \* \*

(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, *shared micromobility (including bikesharing and shared scooter systems)*, alternative work hours, and pricing;

(8) if the project or program is for—

(A) the purchase of diesel retrofits *replacements or that are—*

[(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or]

(i) *verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or*

(ii) *verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects or port-related freight operations that are—*

(I) *located in nonattainment or maintenance areas for ozone, PM<sub>10</sub>, or PM<sub>2.5</sub> (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and*

(II) *funded, in whole or in part, under this title or chapter 53 of title 49; [or]*

(B) *the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel replacements or retrofits;*

(C) *the purchase of medium- or heavy-duty zero emission vehicles and related charging equipment;*

(9) *if the project or program is for the installation of vehicle-to-infrastructure communication equipment[.];*

(10) *if the project is for the modernization or rehabilitation of a lock and dam that—*

(A) *is functionally connected to the Federal-aid highway system; and*

(B) *the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard; or*

(11) *if the project is on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing) that—*

(A) *is functionally connected to the Federal-aid highway system; and*

(B) *the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard.*

(c) SPECIAL RULES.—

(1) PROJECTS FOR PM-10 NONATTAINMENT AREAS.— \* \* \*

\* \* \* \* \*

(4) *Locks and dams; marine highways.—For each fiscal year, a State may not obligate more than 10 percent of the funds apportioned to the State under section 104(b)(4) for projects described in paragraphs (10) and (11) of subsection (b).*

\* \* \* \* \*

(f) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(4) *ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately*

owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles *and nonroad vehicles and nonroad engines used in construction projects or port-related freight operations*, and other capital investments associated with the project;

\* \* \* \* \*

(g) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(B) DIESEL REPLACEMENT OR retrofit.—[The term “diesel retrofit”] *The term ‘diesel replacement or retrofit’* means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel *replacement or retrofit* technologies and supporting technical information for—

\* \* \* \* \*

(3) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM2.5, including diesel *replacements or retrofits*.

\* \* \* \* \*

(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects [that reduce such fine particulate matter emissions in such area, including diesel retrofits.] *that—*

(A) *reduce such fine particulate matter emissions in such area, including diesel replacements or retrofits; and*

(B) *to the extent practicable, prioritize benefits to minority populations or low-income populations living in, or immediately adjacent to, such area.*

\* \* \* \* \*

(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing

a nonattainment or maintenance area shall develop a performance plan that—

(A)\* \* \*

\* \* \* \* \*  
 (3) Assistance to metropolitan planning organizations.—

(A) In general.—On the request of a metropolitan planning organization, the Secretary may assist the metropolitan planning organization tracking progress made in minority or low-income populations as part of a performance plan under this subsection.

(B) Savings provision.—Nothing in this paragraph provides the Secretary the authority—

(i) to change the performance measures under section 150(c)(5) or the performance targets established under section 134(h)(2) or 150(d); or

(ii) to establish any other Federal requirement.

[(m) OPERATING ASSISTANCE.—A State may obligate funds apportioned under section 104(b)(4) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system for which CMAQ funding was made available, obligated or expended in fiscal year 2012, or on a State-Supported? mtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 and no current nonattainment areas under subsection (d), and shall have no imposed time limitation.]

(m) Operating Assistance.—

(1) In general.—A State may obligate funds apportioned under section 104(b)(4) in an area of the State that is otherwise eligible for obligations of such funds for operating costs—

(A) under chapter 53 of title 49; or

(B) on—

(i) a system for which CMAQ funding was eligible, made available, obligated, or expended in fiscal year 2012; or

(ii) a State-supported Amtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note; Public Law 110–432) and no current nonattainment areas under subsection (d).

(2) No time limitation.—Operating assistance provided under paragraph (1) shall have no imposed time limitation if the operating assistance is for—

(A) a route described in subparagraph (B)(ii) of that paragraph; or

(B) a transit system that is located in—

(i) a non-urbanized area; or

(ii) an urbanized area with a population of 200,000 or fewer.

\* \* \* \* \*

**§ 151. National electric vehicle charging and hydrogen, propane, and natural gas fueling corridors**

(a) IN GENERAL.—[Not later than 1 year after the date of enactment of the FAST Act, the Secretary shall] *The Secretary shall pe-*

*riodically* designate national electric vehicle charging and hydrogen, propane, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways **【to improve the mobility【to support changes in the transportation sector that help achieve a reduction in greenhouse gas emissions and improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, propane, and natural gas fueling technologies across the United States.**

(b) DESIGNATION OF CORRIDORS.—In designating the corridors under subsection (a), the Secretary shall—

(1) solicit nominations from State and local officials for facilities to be included in the corridors;

(2) incorporate existing electric vehicle charging, hydrogen fueling, propane fueling, and natural gas fueling corridors *previously designated by the Federal Highway Administration or designated by a State or group of States*; and

\* \* \* \* \*

**【(d) REDESIGNATION.—Not later than 5 years after the date of establishment of the corridors under subsection (a), and every 5 years thereafter, the Secretary shall update and redesignate the corridors.】**

(d) *Redesignation.*—

(1) *Initial redesignation.*—*Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall update and redesignate the corridors under subsection (a).*

(2) *Subsequent redesignation.*—*The Secretary shall establish a recurring process to regularly update and redesignate the corridors under subsection (a).*

(e) REPORT.—During designation and redesignation of the corridors under this section, the Secretary shall issue a report that—

(1) identifies electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure and standardization needs for electricity providers, industrial gas providers, natural gas providers, infrastructure providers, vehicle manufacturers, electricity purchasers, and natural gas purchasers; **【and】**

(2) **【establishes an aspirational goal of achieving】** *describes efforts, including through funds awarded through the grant program under subsection (f), that will aid efforts to achieve strategic deployment of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure in those corridors **【by the end of fiscal year 2020.】** ; and*

(3) *summarizes best practices and provides guidance, developed through consultation with the Secretary of Energy, for project development of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure and natural gas fueling infrastructure at the State, Tribal, and local level to allow for the predictable deployment of that infrastructure.*

(f) *Grant Program.*—

(1) *Definition of private entity.*—In this subsection, the term ‘private entity’ means a corporation, partnership, company, or nonprofit organization.

(2) *Establishment.*—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a grant program to award grants to eligible entities to carry out the activities described in paragraph (6).

(3) *Eligible entities.*—An entity eligible to receive a grant under this subsection is—

(A) a State or political subdivision of a State;

(B) a metropolitan planning organization;

(C) a unit of local government;

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

(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304));

(F) a territory of the United States;

(G) an authority, agency, or instrumentality of, or an entity owned by, 1 or more entities described in subparagraphs (A) through (F); or

(H) a group of entities described in subparagraphs (A) through (G).

(4) *Applications.*—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require, including—

(A) a description of how the eligible entity has considered—

(i) public accessibility of charging or fueling infrastructure proposed to be funded with a grant under this subsection, including—

(I) charging or fueling connector types and publicly available information on real-time availability; and

(II) payment methods to ensure secure, convenient, fair, and equal access;

(ii) collaborative engagement with stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers, electric charging, hydrogen, propane, and natural gas fuel providers, metropolitan planning organizations, States, Indian tribes, and units of local governments, fleet owners, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multi-State and regional entities)—

(I) to foster enhanced, coordinated, public-private or private investment in electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

(II) to expand deployment of electric vehicle charging infrastructure, hydrogen fueling infra-



structure, propane fueling infrastructure, or natural gas fueling infrastructure;

(III) to protect personal privacy and ensure cybersecurity; and

(IV) to ensure that a properly trained workforce is available to construct and install electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

(iii) the location of the station or fueling site, such as consideration of—

(I) the availability of onsite amenities for vehicle operators, such as restrooms or food facilities;

(II) access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(III) height and fueling capacity requirements for facilities that charge or refuel large vehicles, such as semi-trailer trucks; and

(IV) appropriate distribution to avoid redundancy and fill charging or fueling gaps;

(iv) infrastructure installation that can be responsive to technology advancements, such as accommodating autonomous vehicles, vehicle-to-grid technology, and future charging methods; and

(v) the long-term operation and maintenance of the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, to avoid stranded assets and protect the investment of public funds in that infrastructure; and

(B) an assessment of the estimated emissions that will be reduced through the use of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, which shall be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) tool developed by Argonne National Laboratory (or a successor tool).

(5) Considerations.—In selecting eligible entities to receive a grant under this subsection, the Secretary shall—

(A) consider the extent to which the application of the eligible entity would—

(i) improve alternative fueling corridor networks by—

(I) converting corridor-pending corridors to corridor-ready corridors; or

(II) in the case of corridor-ready corridors, providing redundancy—

(aa) to meet excess demand for charging or fueling infrastructure; or

(bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations;

(ii) meet current or anticipated market demands for charging or fueling infrastructure;

(iii) enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance;

(iv) support a long-term competitive market for electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that does not significantly impair existing electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure providers;

(v) provide access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure in areas with a current or forecasted need; and

(vi) deploy electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for medium- and heavy-duty vehicles (including along the National Highway Freight Network established under section 167(c)) and in proximity to intermodal transfer stations;

(B) ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure is available throughout the United States;

(C) consider whether the private entity that the eligible entity contracts with under paragraph (6)—

(i) submits to the Secretary the most recent year of audited financial statements; and

(ii) has experience in installing and operating electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure; and

(D) consider whether, to the maximum extent practicable, the eligible entity and the private entity that the eligible entity contracts with under paragraph (6) enter into an agreement—

(i) to operate and maintain publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas infrastructure; and

(ii) that provides a remedy and an opportunity to cure if the requirements described in clause (i) are not met.

(6) Use of funds.—

(A) In general.—An eligible entity receiving a grant under this subsection shall only use the funds in accordance with this paragraph to contract with a private entity for acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas

*fueling infrastructure that is directly related to the charging or fueling of a vehicle.*

*(B) Location of infrastructure.—Any publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired and installed with a grant under this subsection shall be located along an alternative fuel corridor designated under this section, on the condition that any affected Indian tribes are consulted before the designation.*

*(C) Operating assistance.—*

*(i) In general.—Subject to clauses (ii) and (iii), an eligible entity that receives a grant under this subsection may use a portion of the funds to provide to a private entity operating assistance for the first 5 years of operations after the installation of publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure while the facility transitions to independent system operations.*

*(ii) Inclusions.—Operating assistance under this subparagraph shall be limited to costs allocable to operating and maintaining the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure and service.*

*(iii) Limitation.—Operating assistance under this subparagraph may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.*

*(D) Traffic control devices.—*

*(i) In general.—Subject to this paragraph, an eligible entity that receives a grant under this subsection may use a portion of the funds to acquire and install traffic control devices located in the right-of-way to provide directional information to publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated with the grant.*

*(ii) Applicability.—Clause (i) shall apply only to an eligible entity that—*

*(I) receives a grant under this subsection; and*

*(II) is using that grant for the acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.*

*(iii) Limitation on amount.—The amount of funds used to acquire and install traffic control devices under clause (i) may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible charging or fueling infrastructure.*

(iv) *No new authority created.*—Nothing in this subparagraph authorizes an eligible entity that receives a grant under this subsection to acquire and install traffic control devices if the entity is not otherwise authorized to do so.

(E) *Revenue.*—

(i) *In general.*—An eligible entity receiving a grant under this subsection and a private entity referred to in subparagraph (A) may enter into a cost-sharing agreement under which the private entity submits to the eligible entity a portion of the revenue from the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(ii) *Uses of revenue.*—An eligible entity that receives revenue from a cost-sharing agreement under clause (i) may only use that revenue for a project that is eligible under this title.

(7) *Certain fuels.*—The use of grants for propane fueling infrastructure under this subsection shall be limited to infrastructure for medium- and heavy-duty vehicles.

(8) *Community grants.*—

(A) *In general.*—Notwithstanding paragraphs (4), (5), and (6), the Secretary shall reserve 50 percent of the amounts made available each fiscal year to carry out this section to provide grants to eligible entities in accordance with this paragraph.

(B) *Applications.*—To be eligible to receive a grant under this paragraph, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) *Eligible entities.*—An entity eligible to receive a grant under this paragraph is—

(i) an entity described in paragraph (3); and

(ii) a State or local authority with ownership of publicly accessible transportation facilities.

(D) *Eligible projects.*—The Secretary may provide a grant under this paragraph for a project that is expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, including—

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

(ii) the acquisition and installation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle, including any related construction or reconstruction and the acquisition of real property directly related to the project, such as locations described in subparagraph (E), to expand ac-

cess to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

(E) *Project locations.*—A project receiving a grant under this paragraph may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.

(F) *Priority.*—In providing grants under this paragraph, the Secretary shall give priority to projects that expand access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within—

(i) rural areas;

(ii) low- and moderate-income neighborhoods; and

(iii) communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes, as determined by the Secretary.

(G) *Additional considerations.*—In providing grants under this paragraph, the Secretary shall consider the extent to which the project—

(i) contributes to geographic diversity among eligible entities, including achieving a balance between urban and rural communities; and

(ii) meets current or anticipated market demands for charging or fueling infrastructure, including faster charging speeds with high-powered capabilities necessary to minimize the time to charge or refuel current and anticipated vehicles.

(H) *Partnering with private entities.*—An eligible entity that receives a grant under this paragraph may use the grant funds to contract with a private entity for the acquisition, construction, installation, maintenance, or operation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.

(I) *Maximum grant amount.*—The amount of a grant under this paragraph shall not be more than \$15,000,000.

(J) *Technical assistance.*—Of the amounts reserved under subparagraph (A), the Secretary may use not more than 1 percent to provide technical assistance to eligible entities.

(K) *Additional activities.*—The recipient of a grant under this paragraph may use not more than 5 percent of the grant funds on educational and community engagement activities to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure.

(9) *Requirements.*—

(A) *Project treatment.*—Notwithstanding any other provision of law, any project funded by a grant under this sub-

section shall be treated as a project on a Federal-aid highway under this chapter.

(B) Signs.—Any traffic control device or on-premises sign acquired, installed, or operated with a grant under this subsection shall comply with—

- (i) the Manual on Uniform Traffic Control Devices, if located in the right-of-way; and
- (ii) other provisions of Federal, State, and local law, as applicable.

(10) Federal share.—

(A) In general.—The Federal share of the cost of a project carried out with a grant under this subsection shall not exceed 80 percent of the total project cost.

(B) Responsibility of private entity.—As a condition of contracting with an eligible entity under paragraph (6) or (8), a private entity shall agree to pay the share of the cost of a project carried out with a grant under this subsection that is not paid by the Federal Government under subparagraph (A).

(11) Report.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the progress and implementation of this subsection.

\* \* \* \* \*

**§ 154. Open container requirements**

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

(1) \* \* \*

\* \* \* \* \*

(c) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—\* \* \*

\* \* \* \* \*

(2) FISCAL YEAR **[2012]** 2022 and thereafter.—

**[(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).]**

(A) Reservation of funds.—

- (i) In general.—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those re-

served funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(ii) States described.—A State referred to in clause (i) is a State—

(I) that has not enacted or is not enforcing an open container law described in subsection (b); and

(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing an open container law described in subsection (b).

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under [subparagraph (A)] subparagraph (A)(i), the Secretary shall—

(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

(ii) release the reserved funds identified by the State as described in paragraph (3).

\* \* \* \* \*

**§ 156. Proceeds from the sale or lease of real property**

(a) MINIMUM CHARGE.—\* \* \*

\* \* \* \* \*

*§ 157. National Environmental Policy Act of 1969 reporting program*

(a) Definitions.—In this section:

(1) *Categorical exclusion.*—The term ‘categorical exclusion’ has the meaning given the term in section 771.117(c) of title 23, Code of Federal Regulations (or a successor regulation).

(2) *Documented categorical exclusion.*—The term ‘documented categorical exclusion’ has the meaning given the term in section 771.117(d) of title 23, Code of Federal Regulations (or a successor regulation).

(3) *Environmental assessment.*—The term ‘environmental assessment’ has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(4) *Environmental impact statement.*—The term ‘environmental impact statement’ means a detailed statement required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(5) *Federal agency.*—The term ‘Federal agency’ includes a State that has assumed responsibility under section 327.

(6) *NEPA process.*—The term ‘NEPA process’ means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts, alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

(7) *Proposed action.*—The term ‘proposed action’ means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

(8) *Reporting period.*—The term ‘reporting period’ means the fiscal year prior to the fiscal year in which a report is issued under subsection (b).

(9) *Secretary.*—The term ‘Secretary’ includes the governor or head of an applicable State agency of a State that has assumed responsibility under section 327.

(b) *Report on NEPA Data.*—

(1) *In general.*—The Secretary shall carry out a process to track, and annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing, the information described in paragraph (3).

(2) *Time to complete.*—For purposes of paragraph (3), the NEPA process—

(A) for an environmental impact statement—

(i) begins on the date on which the Notice of Intent is published in the Federal Register; and

(ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

(B) for an environmental assessment—

(i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and

(ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

(3) *Information described.*—The information referred to in paragraph (1) is, with respect to the Department of Transportation—

(A) the number of proposed actions for which a categorical exclusion was issued during the reporting period;

(B) the number of proposed actions for which a documented categorical exclusion was issued by the Department of Transportation during the reporting period;

(C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Department of Transportation is pending;

(D) the number of proposed actions for which an environmental assessment was issued by the Department of Transportation during the reporting period;

(E) the length of time the Department of Transportation took to complete each environmental assessment described in subparagraph (D);

(F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Department of Transportation;



(G) the number of proposed actions for which an environmental impact statement was completed by the Department of Transportation during the reporting period;

(H) the length of time that the Department of Transportation took to complete each environmental impact statement described in subparagraph (G);

(I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and

(J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of those proposed actions for which—

(i) funding has been identified; and

(ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

\* \* \* \* \*

**§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence**

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

(1) 24-7 SOBRIETY PROGRAM.—\* \* \*

\* \* \* \* \*

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—\* \* \*

\* \* \* \* \*

(2) FISCAL YEAR **[2012] 2022** and thereafter.—

**[(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).]**

**(A) Reservation of funds.—**

(i) *In general.*—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

(ii) *States described.*—A State referred to in clause (i) is a State—

(I) that has not enacted or is not enforcing a repeat intoxicated driver law; and

(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing a repeat intoxicated driver law.

(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under [subparagraph (A)] subparagraph (A)(i), the Secretary shall—

\* \* \* \* \*

**§ 165. Territorial and Puerto Rico highway program**

(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

[(1) \$158,000,000 shall be for the Puerto Rico highway program under subsection (b); and

[(2) \$42,000,000 shall be for the territorial highway program under subsection (c).]

(1) for the Puerto Rico highway program under subsection (b)—

- (A) \$173,010,000 shall be for fiscal year 2022;
- (B) \$176,960,000 shall be for fiscal year 2023;
- (C) \$180,120,000 shall be for fiscal year 2024;
- (D) \$183,675,000 shall be for fiscal year 2025; and
- (E) \$187,230,000 shall be for fiscal year 2026; and

(2) for the territorial highway program under subsection (c)—

- (A) \$45,990,000 shall be for fiscal year 2022;
- (B) \$47,040,000 shall be for fiscal year 2023;
- (C) \$47,880,000 shall be for fiscal year 2024;
- (D) \$48,825,000 shall be for fiscal year 2025; and
- (E) \$49,770,000 shall be for fiscal year 2026.

(b) PUERTO RICO HIGHWAY PROGRAM.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

(A) APPORTIONMENT.—

\* \* \* \* \*

(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

- (i) at least 50 percent shall be available only for purposes eligible under section 119;
- (ii) at least 25 percent shall be available only for purposes eligible under section 148; and
- (iii) any remaining funds may be obligated for activities eligible under chapter 1 and preventative maintenance on the National Highway System.

\* \* \* \* \*

(c) TERRITORIAL HIGHWAY PROGRAM.—

(1) TERRITORY DEFINED.—In this subsection, the term “territory” means any of the following territories of the United States:

(A) \* \* \*

\* \* \* \* \*

(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in [paragraphs (1) through (4) of section 133(c) and section 133(b)(12)]) paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13) may not be undertaken on roads functionally classified as local.

\* \* \* \* \*

**§ 166. HOV facilities**

(a) IN GENERAL.—

[(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority]

(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority.

(1) Section 201(c)(6)(A)(ii) of title 23, United States Code, is amended by striking “(25 U.S.C. 450 et seq.) and inserting “(25 U.S.C. 5301 et seq.)” that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

\* \* \* \* \*

(b) EXCEPTIONS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) SPECIAL RULE.— \* \* \*

\* \* \* \* \*

(6) BLOOD TRANSPORT VEHICLES.—The public authority may allow blood transport vehicles that are transporting blood between a collection point and a hospital or storage center to use the HOV facility if the public authority establishes requirements for clearly identifying such vehicles.

\* \* \* \* \*

**§ 167. National highway freight program**

(a) IN GENERAL.—

(1) POLICY.— \* \* \*

\* \* \* \* \*

(e) CRITICAL RURAL FREIGHT CORRIDORS.—

(1) IN GENERAL.—A State may designate a public road within the borders of the State as a critical rural freight corridor if the public road is not in an urbanized area and—

(A) \* \* \*

\* \* \* \* \*

(2) LIMITATION.—A State may designate as critical rural freight corridors a maximum of [150 miles] 300 miles of highway or 20 percent of the primary highway freight system mileage in the State, whichever is greater.

(3) *Rural states.*—Notwithstanding paragraph (2), a State with a population per square mile of area that is less than the national average, based on the 2010 census, may designate as critical rural freight corridors a maximum of 600 miles of highway or 25 percent of the primary highway freight system mileage in the State, whichever is greater.

(f) CRITICAL URBAN FREIGHT CORRIDORS.—

(1) URBANIZED AREA WITH POPULATION OF 500,000 OR MORE.—

\* \* \*

\* \* \* \* \*

(4) LIMITATION.—For each State, a maximum of **75 miles** 150 miles of highway or 10 percent of the primary highway freight system mileage in the State, whichever is greater, may be designated as a critical urban freight corridor under paragraphs (1) and (2).

\* \* \* \* \*

**[(h) HIGHWAY FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—**Not later than 2 years after the date of enactment of the FAST Act, and biennially thereafter, the Administrator shall prepare and submit to Congress a report that describes the conditions and performance of the National Highway Freight Network in the United States.]

**[(i) (h) USE OF APPORTIONED FUNDS.—**

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(5) ELIGIBILITY.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) OTHER PROJECTS.—For each fiscal year, a State may obligate not more than **10 percent** 30 percent of the total apportionment of the State under section 104(b)(5) for freight intermodal or freight rail projects, including projects—

(i) within the boundaries of public or private freight rail or water facilities (including ports); **[and]**

(ii) that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility**].** ;

(iii) for the modernization or rehabilitation of a lock and dam, if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

(II) is likely to reduce on-road mobile source emissions; and

(iv) on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing), if the Secretary determines that the project—

(I) is functionally connected to the National Highway Freight Network; and

*(II) is likely to reduce on-road mobile source emissions.*

\* \* \* \* \*  
**[(j)]** *(i) STATE PERFORMANCE TARGETS.—* \* \* \*

\* \* \* \* \*  
**[(k)]** *(j) INTELLIGENT FREIGHT TRANSPORTATION SYSTEM.—*  
 (1) \* \* \*

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

\* \* \* \* \*  
**§ 170. Funding flexibility for transportation emergencies**

(a) **IN GENERAL.—** \* \* \*

\* \* \* \* \*

**§ 171. Wildlife crossings pilot program**

*(a) FINDING.—Congress finds that greater adoption of wildlife-vehicle collision safety countermeasures is in the public interest because—*

*(1) according to the report of the Federal Highway Administration entitled ‘Wildlife-Vehicle Collision Reduction Study’, there are more than 1,000,000 wildlife-vehicle collisions every year;*

*(2) wildlife-vehicle collisions—*

*(A) present a danger to—*

*(i) human safety; and*

*(ii) wildlife survival; and*

*(B) represent a persistent concern that results in tens of thousands of serious injuries and hundreds of fatalities on the roadways of the United States; and*

*(3) the total annual cost associated with wildlife-vehicle collisions has been estimated to be \$8,388,000,000; and*

*(4) wildlife-vehicle collisions are a major threat to the survival of species, including birds, reptiles, mammals, and amphibians.*

*(b) Establishment.—The Secretary shall establish a competitive wildlife crossings pilot program (referred to in this section as the ‘pilot program’) to provide grants for projects that seek to achieve—*

*(1) a reduction in the number of wildlife-vehicle collisions; and*

*(2) in carrying out the purpose described in paragraph (1), improved habitat connectivity for terrestrial and aquatic species.*

*(c) Eligible Entities.—An entity eligible to apply for a grant under the pilot program is—*

*(1) a State highway agency, or an equivalent of that agency;*

*(2) a metropolitan planning organization (as defined in section 134(b));*

*(3) a unit of local government;*

- (4) a regional transportation authority;
- (5) a special purpose district or public authority with a transportation function, including a port authority;
- (6) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));
- (7) a Federal land management agency; or
- (8) a group of any of the entities described in paragraphs (1) through (7).

(d) Applications.—

(1) *In general.*—To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) *Requirement.*—If an application under paragraph (1) is submitted by an eligible entity other than an eligible entity described in paragraph (1) or (7) of subsection (c), the application shall include documentation that the State highway agency, or an equivalent of that agency, of the State in which the eligible entity is located was consulted during the development of the application.

(3) *Guidance.*—To enhance consideration of current and reliable data, eligible entities may obtain guidance from an agency in the State with jurisdiction over fish and wildlife.

(e) *Considerations.*—In selecting grant recipients under the pilot program, the Secretary shall take into consideration the following:

(1) *Primarily, the extent to which the proposed project of an eligible entity is likely to protect motorists and wildlife by reducing the number of wildlife-vehicle collisions and improve habitat connectivity for terrestrial and aquatic species.*

(2) *Secondarily, the extent to which the proposed project of an eligible entity is likely to accomplish the following:*

(A) *Leveraging Federal investment by encouraging non-Federal contributions to the project, including projects from public-private partnerships.*

(B) *Supporting local economic development and improvement of visitation opportunities.*

(C) *Incorporation of innovative technologies, including advanced design techniques and other strategies to enhance efficiency and effectiveness in reducing wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species.*

(D) *Provision of educational and outreach opportunities.*

(E) *Monitoring and research to evaluate, compare effectiveness of, and identify best practices in, selected projects.*

(F) *Any other criteria relevant to reducing the number of wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species, as the Secretary determines to be appropriate, subject to the condition that the implementation of the pilot program shall not be delayed in the absence of action by the Secretary to identify additional criteria under this subparagraph.*

(f) *Use of Funds.*—

(1) *In general.*—The Secretary shall ensure that a grant received under the pilot program is used for a project to reduce wildlife-vehicle collisions.

(2) *Grant administration.*—

(A) *In general.*—A grant received under the pilot program shall be administered by—

(i) in the case of a grant to a Federal land management agency or an Indian tribe (as defined in section 207(m)(1), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602))), the Federal Highway Administration, through an agreement; and

(ii) in the case of a grant to an eligible entity other than an eligible entity described in clause (i), the State highway agency, or an equivalent of that agency, for the State in which the project is to be carried out.

(B) *Partnerships.*—

(i) *In general.*—A grant received under the pilot program may be used to provide funds to eligible partners of the project for which the grant was received described in clause (ii), in accordance with the terms of the project agreement.

(ii) *Eligible partners described.*—The eligible partners referred to in clause (i) include—

(I) a metropolitan planning organization (as defined in section 134(b));

(II) a unit of local government;

(III) a regional transportation authority;

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

(V) an Indian tribe (as defined in section 207(m)(1), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)));

(VI) a Federal land management agency;

(VII) a foundation, nongovernmental organization, or institution of higher education;

(VIII) a Federal, Tribal, regional, or State government entity; and

(IX) a group of any of the entities described in subclauses (I) through (VIII).

(3) *Compliance.*—An eligible entity that receives a grant under the pilot program and enters into a partnership described in paragraph (2) shall establish measures to verify that an eligible partner that receives funds from the grant complies with the conditions of the pilot program in using those funds.

(g) *Requirement.*—The Secretary shall ensure that not less than 60 percent of the amounts made available for grants under the pilot program each fiscal year are for projects located in rural areas.

(h) *Annual Report to Congress.*—

(1) *In general.*—Not later than December 31 of each calendar year, the Secretary shall submit to Congress, and make publicly

available, a report describing the activities under the pilot program for the fiscal year that ends during that calendar year.

(2) *Contents.*—The report under paragraph (1) shall include—

(A) a detailed description of the activities carried out under the pilot program;

(B) an evaluation of the effectiveness of the pilot program in meeting the purposes described in subsection (b); and

(C) policy recommendations to improve the effectiveness of the pilot program.

§ 172. *Wildlife-vehicle collision reduction and habitat connectivity improvement*

(a) *Study.*—

(1) *In general.*—The Secretary shall conduct a study (referred to in this subsection as the ‘study’) of the state, as of the date of the study, of the practice of methods to reduce collisions between motorists and wildlife (referred to in this section as ‘wildlife-vehicle collisions’).

(2) *Contents.*—

(A) *Areas of study.*—The study shall—

(i) update and expand on, as appropriate—

(I) the report entitled ‘Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress’; and

(II) the document entitled ‘Wildlife Vehicle Collision Reduction Study: Best Practices Manual’ and dated October 2008; and

(ii) include—

(I) an assessment, as of the date of the study, of—

(aa) the causes of wildlife-vehicle collisions;

(bb) the impact of wildlife-vehicle collisions on motorists and wildlife; and

(cc) the impacts of roads and traffic on habitat connectivity for terrestrial and aquatic species; and

(II) solutions and best practices for—

(aa) reducing wildlife-vehicle collisions; and

(bb) improving habitat connectivity for terrestrial and aquatic species.

(B) *Methods.*—In carrying out the study, the Secretary shall—

(i) conduct a thorough review of research and data relating to—

(I) wildlife-vehicle collisions; and

(II) habitat fragmentation that results from transportation infrastructure;

(ii) survey current practices of the Department of Transportation and State departments of transportation to reduce wildlife-vehicle collisions; and

(iii) consult with—

(I) appropriate experts in the field of wildlife-vehicle collisions; and



(II) appropriate experts on the effects of roads and traffic on habitat connectivity for terrestrial and aquatic species.

(3) Report.—

(A) *In general.*—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report on the results of the study.

(B) *Contents.*—The report under subparagraph (A) shall include—

(i) a description of—

(I) the causes of wildlife-vehicle collisions;

(II) the impacts of wildlife-vehicle collisions; and

(III) the impacts of roads and traffic on—

(aa) species listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(bb) species identified by States as species of greatest conservation need;

(cc) species identified in State wildlife plans; and

(dd) medium and small terrestrial and aquatic species;

(ii) an economic evaluation of the costs and benefits of installing highway infrastructure and other measures to mitigate damage to terrestrial and aquatic species, including the effect on jobs, property values, and economic growth to society, adjacent communities, and landowners;

(iii) recommendations for preventing wildlife-vehicle collisions, including recommended best practices, funding resources, or other recommendations for addressing wildlife-vehicle collisions; and

(iv) guidance, developed in consultation with Federal land management agencies and State departments of transportation, State fish and wildlife agencies, and Tribal governments that agree to participate, for developing, for each State that agrees to participate, a voluntary joint statewide transportation and wildlife action plan—

(I) to address wildlife-vehicle collisions; and

(II) to improve habitat connectivity for terrestrial and aquatic species.

(b) Workforce Development and Technical Training.—

(1) *In general.*—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall, based on the study conducted under subsection (a), develop a series of in-person and online workforce development and technical training courses—

(A) to reduce wildlife-vehicle collisions; and

(B) to improve habitat connectivity for terrestrial and aquatic species.

(2) *Availability.*—The Secretary shall—

- (A) make the series of courses developed under paragraph (1) available for transportation and fish and wildlife professionals; and
- (B) update the series of courses not less frequently than once every 2 years.
- (c) *Standardization of Wildlife Collision and Carcass Data.*—
- (1) *Standardized methodology.*—
- (A) *In general.*—The Secretary, acting through the Administrator of the Federal Highway Administration (referred to in this subsection as the ‘Secretary’), shall develop a quality standardized methodology for collecting and reporting spatially accurate wildlife collision and carcass data for the National Highway System, considering the practicability of the methodology with respect to technology and cost.
- (B) *Methodology.*—In developing the standardized methodology under subparagraph (A), the Secretary shall—
- (i) survey existing methodologies and sources of data collection, including the Fatality Analysis Reporting System, the General Estimates System of the National Automotive Sampling System, and the Highway Safety Information System; and
- (ii) to the extent practicable, identify and correct limitations of those existing methodologies and sources of data collection.
- (C) *Consultation.*—In developing the standardized methodology under subparagraph (A), the Secretary shall consult with—
- (i) the Secretary of the Interior;
- (ii) the Secretary of Agriculture, acting through the Chief of the Forest Service;
- (iii) Tribal, State, and local transportation and wildlife authorities;
- (iv) metropolitan planning organizations (as defined in section 134(b));
- (v) members of the American Association of State Highway Transportation Officials;
- (vi) members of the Association of Fish and Wildlife Agencies;
- (vii) experts in the field of wildlife-vehicle collisions;
- (viii) nongovernmental organizations; and
- (ix) other interested stakeholders, as appropriate.
- (2) *Standardized national data system with voluntary template implementation.*—The Secretary shall—
- (A) develop a template for State implementation of a standardized national wildlife collision and carcass data system for the National Highway System that is based on the standardized methodology developed under paragraph (1); and
- (B) encourage the voluntary implementation of the template developed under subparagraph (A).
- (3) *Reports.*—
- (A) *Methodology.*—The Secretary shall submit to Congress a report describing the standardized methodology developed under paragraph (1) not later than the later of—

(i) the date that is 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021; and

(ii) the date that is 180 days after the date on which the Secretary completes the development of the standardized methodology.

(B) *Implementation.*—Not later than 4 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report describing—

(i) the status of the voluntary implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A);

(ii) whether the implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A) has impacted efforts by States, units of local government, and other entities—

(I) to reduce the number of wildlife-vehicle collisions; and

(II) to improve habitat connectivity;

(iii) the degree of the impact described in clause (ii); and

(iv) the recommendations of the Secretary, including recommendations for further study aimed at reducing motorist collisions involving wildlife and improving habitat connectivity for terrestrial and aquatic species on the National Highway System, if any.

(d) *National Threshold Guidance.*—The Secretary shall—

(1) establish guidance, to be carried out by States on a voluntary basis, that contains a threshold for determining whether a highway shall be evaluated for potential mitigation measures to reduce wildlife-vehicle collisions and increase habitat connectivity for terrestrial and aquatic species, taking into consideration—

(A) the number of wildlife-vehicle collisions on the highway that pose a human safety risk;

(B) highway-related mortality and the effects of traffic on the highway on—

(i) species listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(ii) species identified by a State as species of greatest conservation need;

(iii) species identified in State wildlife plans; and

(iv) medium and small terrestrial and aquatic species; and

(C) habitat connectivity values for terrestrial and aquatic species and the barrier effect of the highway on the movements and migrations of those species.

§ 173. Rural surface transportation grant program

(a) *Definitions.*—In this section:

(1) *Program.*—The term ‘program’ means the program established under subsection (b)(1).

(2) *Rural area.*—The term ‘rural area’ means an area that is outside an urbanized area with a population of over 200,000.

(b) *Establishment.*—

(1) *In general.*—The Secretary shall establish a rural surface transportation grant program to provide grants, on a competitive basis, to eligible entities to improve and expand the surface transportation infrastructure in rural areas.

(2) *Goals.*—The goals of the program shall be—

(A) to increase connectivity;

(B) to improve the safety and reliability of the movement of people and freight; and

(C) to generate regional economic growth and improve quality of life.

(3) *Grant administration.*—The Secretary may—

(A) retain not more than a total of 2 percent of the funds made available to carry out the program and to review applications for grants under the program; and

(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under the program.

(c) *Eligible Entities.*—The Secretary may make a grant under the program to—

(1) a State;

(2) a regional transportation planning organization;

(3) a unit of local government;

(4) a Tribal government or a consortium of Tribal governments; and

(5) a multijurisdictional group of entities described in paragraphs (1) through (4).

(d) *Applications.*—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

(e) *Eligible Projects.*—

(1) *In general.*—Except as provided in paragraph (2), the Secretary may make a grant under the program only for a project that is—

(A) a highway, bridge, or tunnel project eligible under section 119(d);

(B) a highway, bridge, or tunnel project eligible under section 133(b);

(C) a project eligible under section 202(a);

(D) a highway freight project eligible under section 167(h)(5);

(E) a highway safety improvement project, including a project to improve a high risk rural road (as those terms are defined in section 148(a));

(F) a project on a publicly-owned highway or bridge that provides or increases access to an agricultural, commercial, energy, or intermodal facility that supports the economy of a rural area; or

(G) a project to develop, establish, or maintain an integrated mobility management system, a transportation demand management system, or on-demand mobility services.

(2) *Bundling of eligible projects.*—

- (A) *In general.*—An eligible entity may bundle 2 or more similar eligible projects under the program that are—
- (i) included as a bundled project in a statewide transportation improvement program under section 135; and
  - (ii) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and the eligible entity.
- (B) *Itemization.*—Notwithstanding any other provision of law (including regulations), a bundling of eligible projects under this paragraph may be considered to be a single project, including for purposes of section 135.
- (f) *Eligible Project Costs.*—An eligible entity may use funds from a grant under the program for—
- (1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and
  - (2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.
- (g) *Project Requirements.*—The Secretary may provide a grant under the program to an eligible project only if the Secretary determines that the project—
- (1) will generate regional economic, mobility, or safety benefits;
  - (2) will be cost effective;
  - (3) will contribute to the accomplishment of 1 or more of the national goals under section 150;
  - (4) is based on the results of preliminary engineering; and
  - (5) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.
- (h) *Additional Considerations.*—In providing grants under the program, the Secretary shall consider the extent to which an eligible project will—
- (1) improve the state of good repair of existing highway, bridge, and tunnel facilities;
  - (2) increase the capacity or connectivity of the surface transportation system and improve mobility for residents of rural areas;
  - (3) address economic development and job creation challenges, including energy sector job losses in energy communities as identified in the report released in April 2021 by the interagency working group established by section 218 of Executive Order 14008 (86 Fed. Reg. 7628 (February 1, 2021));
  - (4) enhance recreational and tourism opportunities by providing access to Federal land, national parks, national forests, national recreation areas, national wildlife refuges, wilderness areas, or State parks;
  - (5) contribute to geographic diversity among grant recipients;
  - (6) utilize innovative project delivery approaches or incorporate transportation technologies;

(7) coordinate with projects to address broadband infrastructure needs; or

(8) improve access to emergency care, essential services, healthcare providers, or drug and alcohol treatment and rehabilitation resources.

(i) *Grant Amount.*—Except as provided in subsection (k)(1), a grant under the program shall be in an amount that is not less than \$25,000,000.

(j) *Federal Share.*—

(1) *In general.*—Except as provided in paragraph (2), the Federal share of the cost of a project carried out with a grant under the program may not exceed 80 percent.

(2) *Federal share for certain projects.*—The Federal share of the cost of an eligible project that furthers the completion of a designated segment of the Appalachian Development Highway System under section 14501 of title 40, or addresses a surface transportation infrastructure need identified for the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) shall be up to 100 percent, as determined by the State.

(3) *Use of other federal assistance.*—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project carried out with a grant under the program.

(k) *Set Asides.*—

(1) *Small projects.*—The Secretary shall use not more than 10 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects in an amount that is less than \$25,000,000.

(2) *Appalachian development highway system.*—The Secretary shall reserve 25 percent of the amounts made available for the program for each fiscal year for eligible projects that further the completion of designated routes of the Appalachian Development Highway System under section 14501 of title 40.

(3) *Rural roadway lane departures.*—The Secretary shall reserve 15 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects located in States that have rural roadway fatalities as a result of lane departures that are greater than the average of rural roadway fatalities as a result of lane departures in the United States, based on the latest available data from the Secretary.

(4) *Excess funding.*—In any fiscal year in which qualified applications for grants under this subsection do not allow for the amounts reserved under paragraphs (1), (2), or (3) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under the program.

(l) *Congressional Review.*—

(1) *Notification.*—Not less than 60 days before providing a grant under the program, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

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

(B) each application proposed to be selected for a grant, including a justification for the selection; and

(C) proposed grant amounts.

(2) *Committee review.*—Before the last day of the 60-day period described in paragraph (1), each Committee described in paragraph (1) shall review the list of proposed projects submitted by the Secretary.

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

(m) *Transparency.*—

(1) *In general.*—Not later than 30 days after providing a grant for a project under the program, the Secretary shall provide to all applicants, and publish on the website of the Department of Transportation, the information described in subsection (l)(1).

(2) *Briefing.*—The Secretary shall provide, on the request of an eligible entity, the opportunity to receive a briefing to explain any reasons the eligible entity was not selected to receive a grant under the program.

(n) *Reports.*—

(1) *Annual report.*—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under the program during that fiscal year.

(2) *Comptroller general.*—

(A) *Assessment.*—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the awarding of grants under the program for each fiscal year.

(B) *Report.*—Each fiscal year, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, for the fiscal year—

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

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

#### § 174. State human capital plans

(a) *In General.*—Not later than 18 months after the date of enactment of this section, the Secretary shall encourage each State to develop a voluntary plan, to be known as a ‘human capital plan’, that provides for the immediate and long-term personnel and workforce needs of the State with respect to the capacity of the State to deliver transportation and public infrastructure eligible under this title.

(b) *Plan Contents.*—

(1) *In general.*—A human capital plan developed by a State under subsection (a) shall, to the maximum extent practicable, take into consideration—

- (A) significant transportation workforce trends, needs, issues, and challenges with respect to the State;
- (B) the human capital policies, strategies, and performance measures that will guide the transportation-related workforce investment decisions of the State;
- (C) coordination with educational institutions, industry, organized labor, workforce boards, and other agencies or organizations to address the human capital transportation needs of the State;
- (D) a workforce planning strategy that identifies current and future human capital needs, including the knowledge, skills, and abilities needed to recruit and retain skilled workers in the transportation industry;
- (E) a human capital management strategy that is aligned with the transportation mission, goals, and organizational objectives of the State;
- (F) an implementation system for workforce goals focused on addressing continuity of leadership and knowledge sharing across the State;
- (G) an implementation system that addresses workforce competency gaps, particularly in mission-critical occupations;
- (H) in the case of public-private partnerships or other alternative project delivery methods to carry out the transportation program of the State, a description of workforce needs—
- (i) to ensure that the transportation mission, goals, and organizational objectives of the State are fully carried out; and
  - (ii) to ensure that procurement methods provide the best public value;
- (I) a system for analyzing and evaluating the performance of the State department of transportation with respect to all aspects of human capital management policies, programs, and activities; and
- (J) the manner in which the plan will improve the ability of the State to meet the national policy in support of performance management established under section 150.
- (2) *Planning period.*—If a State develops a human capital plan under subsection (a), the plan shall address a 5-year forecast period.
- (c) *Plan Updates.*—If a State develops a human capital plan under subsection (a), the State shall update the plan not less frequently than once every 5 years.
- (d) *Relationship to Long-range Plan.*—
- (1) *In general.*—Subject to paragraph (2), a human capital plan developed by a State under subsection (a) may be developed separately from, or incorporated into, the long-range statewide transportation plan required under section 135.
  - (2) *Effect of section.*—Nothing in this section requires a State, or authorizes the Secretary to require a State, to incorporate a human capital plan into the long-range statewide transportation plan required under section 135.
- (e) *Public Availability.*—Each State that develops a human capital plan under subsection (a) shall make a copy of the plan avail-



able to the public in a user-friendly format on the website of the State department of transportation.

(f) *Savings Provision.*—Nothing in this section prevents a State from carrying out transportation workforce planning—

- (1) not described in this section; or
- (2) not in accordance with this section.

§ 175. Carbon reduction program

(a) *Definitions.*—In this section:

(1) *Metropolitan planning organization; urbanized area.*—The terms ‘metropolitan planning organization’ and ‘urbanized area’ have the meaning given those terms in section 134(b).

(2) *Transportation emissions.*—The term ‘transportation emissions’ means carbon dioxide emissions from on-road highway sources of those emissions within a State.

(3) *Transportation management area.*—The term ‘transportation management area’ means a transportation management area identified or designated by the Secretary under section 134(k)(1).

(b) *Establishment.*—The Secretary shall establish a carbon reduction program to reduce transportation emissions.

(c) *Eligible Projects.*—

(1) *In general.*—Subject to paragraph (2), funds apportioned to a State under section 104(b)(7) may be obligated for projects to support the reduction of transportation emissions, including—

(A) a project described in section 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems;

(B) a public transportation project that is eligible for assistance under section 142;

(C) a project described in section 101(a)(29) (as in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312)), including the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation;

(D) a project described in section 503(c)(4)(E) for advanced transportation and congestion management technologies;

(E) a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C–V2X) technology;

(F) a project to replace street lighting and traffic control devices with energy-efficient alternatives;

(G) the development of a carbon reduction strategy in accordance with subsection (d);

(H) a project or strategy that is designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing vehicle oc-

cupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs;

(I) efforts to reduce the environmental and community impacts of freight movement;

(J) a project to support deployment of alternative fuel vehicles, including—

(i) the acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and

(ii) the purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities;

(K) a project described in section 149(b)(8) for a diesel engine retrofit;

(L) a project described in section 149(b)(5) that does not result in the construction of new capacity; and

(M) a project that reduces transportation emissions at port facilities, including through the advancement of port electrification.

(2) *Flexibility.*—In addition to the eligible projects under paragraph (1), a State may use funds apportioned under section 104(b)(7) for a project eligible under section 133(b) if the Secretary certifies that the State has demonstrated a reduction in transportation emissions—

(A) as estimated on a per capita basis; and

(B) as estimated on a per unit of economic output basis.

(d) *Carbon Reduction Strategy.*—

(1) *In general.*—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, a State, in consultation with any metropolitan planning organization designated within the State, shall develop a carbon reduction strategy in accordance with this subsection.

(2) *Requirements.*—The carbon reduction strategy of a State developed under paragraph (1) shall—

(A) support efforts to reduce transportation emissions;

(B) identify projects and strategies to reduce transportation emissions, which may include projects and strategies for safe, reliable, and cost-effective options—

(i) to reduce traffic congestion by facilitating the use of alternatives to single-occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State or an area served by the applicable metropolitan planning organization, if any;

(ii) to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled as compared to existing vehicles and modes; and

(iii) to facilitate approaches to the construction of transportation assets that result in lower transportation emissions as compared to existing approaches;

(C) support the reduction of transportation emissions of the State;

(D) at the discretion of the State, quantify the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State; and

(E) be appropriate to the population density and context of the State, including any metropolitan planning organization designated within the State.

(3) *Updates.*—The carbon reduction strategy of a State developed under paragraph (1) shall be updated not less frequently than once every 4 years.

(4) *Review.*—Not later than 90 days after the date on which a State submits a request for the approval of a carbon reduction strategy developed by the State under paragraph (1), the Secretary shall—

(A) review the process used to develop the carbon reduction strategy; and

(B)(i) certify that the carbon reduction strategy meets the requirements of paragraph (2); or

(ii) deny certification of the carbon reduction strategy and specify the actions necessary for the State to take to correct the deficiencies in the process of the State in developing the carbon reduction strategy.

(5) *Technical assistance.*—At the request of a State, the Secretary shall provide technical assistance in the development of the carbon reduction strategy under paragraph (1).

(e) *Suballocation.*—

(1) *In general.*—For each fiscal year, of the funds apportioned to the State under section 104(b)(7)—

(A) 65 percent shall be obligated, in proportion to their relative shares of the population of the State—

(i) in urbanized areas of the State with an urbanized area population of more than 200,000;

(ii) in urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;

(iii) in urban areas of the State with a population of not less than 5,000 and not more than 49,999; and

(iv) in other areas of the State with a population of less than 5,000; and

(B) the remainder may be obligated in any area of the State.

(2) *Metropolitan areas.*—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

(3) *Distribution among urbanized areas of over 50,000 population.*—

(A) *In general.*—Except as provided in subparagraph (B), the amounts that a State is required to obligate under clauses (i) and (ii) of paragraph (1)(A) shall be obligated in urbanized areas described in those clauses based on the relative population of the areas.

- (B) *Other factors.*—*The State may obligate the funds described in subparagraph (A) based on other factors if—*
- (i) *the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors; and*
  - (ii) *the Secretary grants the request.*
- (4) *Coordination in urbanized areas.*—*Before obligating funds for an eligible project under subsection (c) in an urbanized area that is not a transportation management area, a State shall coordinate with any metropolitan planning organization that represents the urbanized area prior to determining which activities should be carried out under the project.*
- (5) *Consultation in rural areas.*—*Before obligating funds for an eligible project under subsection (c) in a rural area, a State shall consult with any regional transportation planning organization or metropolitan planning organization that represents the rural area prior to determining which activities should be carried out under the project.*
- (6) *Obligation authority.*—
- (A) *In general.*—*A State that is required to obligate in an urbanized area with an urbanized area population of 50,000 or more under this subsection funds apportioned to the State under section 104(b)(7) shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—*
    - (i) *the aggregate amount of funds that the State is required to obligate in the area under this subsection during the period; and*
    - (ii) *the ratio that—*
      - (I) *the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to*
      - (II) *the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.*
  - (B) *Joint responsibility.*—*Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with subparagraph (A).*
- (f) *Federal Share.*—*The Federal share of the cost of a project carried out using funds apportioned to a State under section 104(b)(7) shall be determined in accordance with section 120.*

**§ 176. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program**

(a) *Definitions.*—*In this section:*

- (1) *Emergency event.*—*The term ‘emergency event’ means a natural disaster or catastrophic failure resulting in—*
  - (A) *an emergency declared by the Governor of the State in which the disaster or failure occurred; or*
  - (B) *an emergency or disaster declared by the President.*

(2) *Evacuation route.*—The term ‘evacuation route’ means a transportation route or system that—

(A) is owned, operated, or maintained by a Federal, State, Tribal, or local government;

(B) is used—

(i) to transport the public away from emergency events; or

(ii) to transport emergency responders and recovery resources; and

(C) is designated by the eligible entity with jurisdiction over the area in which the route is located for the purposes described in subparagraph (B).

(3) *Program.*—The term ‘program’ means the program established under subsection (b)(1).

(4) *Resilience improvement.*—The term ‘resilience improvement’ means the use of materials or structural or nonstructural techniques, including natural infrastructure—

(A) that allow a project—

(i) to better anticipate, prepare for, and adapt to changing conditions and to withstand and respond to disruptions; and

(ii) to be better able to continue to serve the primary function of the project during and after weather events and natural disasters for the expected life of the project; or

(B) that—

(i) reduce the magnitude and duration of impacts of current and future weather events and natural disasters to a project; or

(ii) have the absorptive capacity, adaptive capacity, and recoverability to decrease project vulnerability to current and future weather events or natural disasters.

(b) *Establishment.*—

(1) *In general.*—The Secretary shall establish a program, to be known as the ‘Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation program’ or the ‘PROTECT program’.

(2) *Purpose.*—The purpose of the program is to provide grants for resilience improvements through—

(A) formula funding distributed to States to carry out subsection (c);

(B) competitive planning grants to enable communities to assess vulnerabilities to current and future weather events and natural disasters and changing conditions, including sea level rise, and plan transportation improvements and emergency response strategies to address those vulnerabilities; and

(C) competitive resilience improvement grants to protect—

(i) surface transportation assets by making the assets more resilient to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperature, and earthquakes;

(ii) communities through resilience improvements and strategies that allow for the continued operation or rapid recovery of surface transportation systems that—

(I) serve critical local, regional, and national needs, including evacuation routes; and

(II) provide access or service to hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities;

(iii) coastal infrastructure, such as a tide gate to protect highways, that is at long-term risk to sea level rise; and

(iv) natural infrastructure that protects and enhances surface transportation assets while improving ecosystem conditions, including culverts that ensure adequate flows in rivers and estuarine systems.

(c) *Eligible Activities for Apportioned Funding.*—

(1) *In general.*—Except as provided in paragraph (2), funds apportioned to the State under section 104(b)(8) shall be obligated for activities eligible under subparagraph (A), (B), or (C) of subsection (d)(4).

(2) *Planning set-aside.*—Of the funds apportioned to a State under section 104(b)(8) for each fiscal year, not less than 2 percent shall be for activities described in subsection (d)(3).

(3) *Requirements.*—

(A) *Projects in certain areas.*—If a project under this subsection is carried out, in whole or in part, within a base floodplain, the State shall—

(i) identify the base floodplain in which the project is to be located and disclose that information to the Secretary; and

(ii) indicate to the Secretary whether the State plans to implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(B) *Eligibilities.*—A State shall use funds apportioned to the State under section 104(b)(8) for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49; or

(iii) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(C) *System resilience.*—A project carried out by a State with funds apportioned to the State under section 104(b)(8) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installation of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways;

(iv) upgrades to and installation of flood gates to protect tunnel entrances; and

(v) improving functionality and resiliency of stormwater controls, including inventory inspections, upgrades to, and preservation of best management practices to protect surface transportation infrastructure.

**(D) Federal cost share.—**

(i) *In general.*—Except as provided in subsection (e)(1), the Federal share of the cost of a project carried out using funds apportioned to the State under section 104(b)(8) shall not exceed 80 percent of the total project cost.

(ii) *Non-federal share.*—A State may use Federal funds other than Federal funds apportioned to the State under section 104(b)(8) to meet the non-Federal cost share requirement for a project under this subsection.

**(E) Eligible project costs.—**

(i) *In general.*—Except as provided in clause (ii), eligible project costs for activities carried out by a State with funds apportioned to the State under section 104(b)(8) may include the costs of—

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

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

(ii) *Eligible planning costs.*—In the case of a planning activity described in subsection (d)(3) that is carried out by a State with funds apportioned to the State under section 104(b)(8), eligible costs may include development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of subsection (d)(3).

**(F) Limitations.—A State—**

(i) may use not more than 40 percent of the amounts apportioned to the State under section 104(b)(8) for the construction of new capacity; and

(ii) may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(8) for activities described in subparagraph (E)(i)(I).

(d) *Competitive Awards.*—

(1) *In general.*—In addition to funds apportioned to States under section 104(b)(8) to carry out activities under subsection (c), the Secretary shall provide grants on a competitive basis under this subsection to eligible entities described in paragraph (2).

(2) *Eligible entities.*—Except as provided in paragraph (4)(C), the Secretary may make a grant under this subsection to any of the following:

(A) A State or political subdivision of a State.

(B) A metropolitan planning organization.

(C) A unit of local government.

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

(E) An Indian tribe (as defined in section 207(m)(1)).

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

(G) A multi-State or multijurisdictional group of entities described in subparagraphs (A) through (F).

(3) *Planning grants.*—Using funds made available under this subsection, the Secretary shall provide planning grants to eligible entities for the purpose of—

(A) in the case of a State or metropolitan planning organization, developing a resilience improvement plan under subsection (e)(2);

(B) resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments;

(C) technical capacity building by the eligible entity to facilitate the ability of the eligible entity to assess the vulnerabilities of the surface transportation assets and community response strategies of the eligible entity under current conditions and a range of potential future conditions; or

(D) evacuation planning and preparation.

(4) *Resilience grants.*—

(A) *Resilience improvement grants.*—

(i) *In general.*—Using funds made available under this subsection, the Secretary shall provide resilience improvement grants to eligible entities to carry out 1 or more eligible activities under clause (ii).

(ii) *Eligible activities.*—

(I) *In general.*—An eligible entity may use a resilience improvement grant under this subparagraph for 1 or more construction activities to improve the ability of an existing surface transportation asset to withstand 1 or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastruc-



ture from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters.

(II) *Inclusions.*—An activity eligible to be carried out under this subparagraph includes—

(aa) resurfacing, restoration, rehabilitation, reconstruction, replacement, improvement, or realignment of an existing surface transportation facility eligible for assistance under this title;

(bb) the incorporation of natural infrastructure;

(cc) the upgrade of an existing surface transportation facility to meet or exceed a design standard adopted by the Federal Highway Administration;

(dd) the installation of mitigation measures that prevent the intrusion of floodwaters into surface transportation systems;

(ee) strengthening systems that remove rainwater from surface transportation facilities;

(ff) upgrades to and installation of structural stormwater controls;

(gg) a resilience project that addresses identified vulnerabilities described in the resilience improvement plan of the eligible entity, if applicable;

(hh) relocating roadways in a base floodplain to higher ground above projected flood elevation levels, or away from slide prone areas;

(ii) stabilizing slide areas or slopes;

(jj) installing riprap;

(kk) lengthening or raising bridges to increase waterway openings, including to respond to extreme weather;

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

(mm) installing seismic retrofits on bridges;

(nn) adding scour protection at bridges;

(oo) adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;

(pp) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, facilitate wildfire control, and provide erosion control; and

(qq) any other protective features, including natural infrastructure, as determined by the Secretary.

(iii) *Priority.*—The Secretary shall prioritize a resilience improvement grant to an eligible entity if—

(I) the Secretary determines—

(aa) the benefits of the eligible activity proposed to be carried out by the eligible entity exceed the costs of the activity; and

(bb) there is a need to address the vulnerabilities of surface transportation assets of the eligible entity with a high risk of, and impacts associated with, failure due to the impacts of weather events, natural disasters, or changing conditions, such as sea level rise, wildfires, and increased flood risk; or

(II) the eligible activity proposed to be carried out by the eligible entity is included in the applicable resilience improvement plan under subsection (e)(2).

**(B) Community resilience and evacuation route grants.—**

(i) *In general.*—Using funds made available under this subsection, the Secretary shall provide community resilience and evacuation route grants to eligible entities to carry out 1 or more eligible activities under clause (ii).

(ii) *Eligible activities.*—An eligible entity may use a community resilience and evacuation route grant under this subparagraph for 1 or more projects that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events, including a project that—

(I) is an eligible activity under subparagraph (A)(ii), if that eligible activity will improve an evacuation route;

(II) ensures the ability of the evacuation route to provide safe passage during an evacuation and reduces the risk of damage to evacuation routes as a result of future emergency events, including restoring or replacing existing evacuation routes that are in poor condition or not designed to meet the anticipated demand during an emergency event, and including steps to protect routes from mud, rock, or other debris slides;

(III) if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, expands the capacity of evacuation routes to swiftly and safely accommodate evacuations, including installation of—

(aa) communications and intelligent transportation system equipment and infrastructure;

(bb) counterflow measures; or

(cc) shoulders;

(IV) is for the construction of new or redundant evacuation routes, if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, in-

cluding the transportation of emergency responders and recovery resources;

(V) is for the acquisition of evacuation route or traffic incident management equipment or signage; or

(VI) will ensure access or service to critical destinations, including hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities.

(iii) *Priority.*—The Secretary shall prioritize community resilience and evacuation route grants under this subparagraph for eligible activities that are cost-effective, as determined by the Secretary, taking into account—

(I) current and future vulnerabilities to an evacuation route due to future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the evacuation route is located; and

(II) projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis.

(iv) *Consultation.*—In providing grants for community resilience and evacuation routes under this subparagraph, the Secretary may consult with the Administrator of the Federal Emergency Management Agency, who may provide technical assistance to the Secretary and to eligible entities.

(C) *At-risk coastal infrastructure grants.*—

(i) *Definition of eligible entity.*—In this subparagraph, the term ‘eligible entity’ means any of the following:

(I) A State (including the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(II) A political subdivision of a State described in subclause (I).

(III) A metropolitan planning organization in a State described in subclause (I).

(IV) A unit of local government in a State described in subclause (I).

(V) A special purpose district or public authority with a transportation function, including a port authority, in a State described in subclause (I).

(VI) An Indian tribe in a State described in subclause (I).

(VII) A Federal land management agency that applies jointly with a State or group of States described in subclause (I).

(VIII) A multi-State or multijurisdictional group of entities described in subclauses (I) through (VII).

(ii) *Grants.*—Using funds made available under this subsection, the Secretary shall provide at-risk coastal infrastructure grants to eligible entities to carry out 1 or more eligible activities under clause (iii).

(iii) *Eligible activities.*—An eligible entity may use an at-risk coastal infrastructure grant under this subparagraph for strengthening, stabilizing, hardening, elevating, relocating, or otherwise enhancing the resilience of highway and non-rail infrastructure, including bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways, that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs.

(iv) *Criteria.*—The Secretary shall provide at-risk coastal infrastructure grants under this subparagraph for a project—

(I) that addresses the risks from a current or future weather event or natural disaster, including coastal flooding, coastal erosion, wave action, storm surge, or sea level change; and

(II) that reduces long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs.

(v) *Coastal benefits.*—In addition to the criteria under clause (iv), for the purpose of providing at-risk coastal infrastructure grants under this subparagraph, the Secretary shall evaluate the extent to which a project will provide—

(I) access to coastal homes, businesses, communities, and other critical infrastructure, including access by first responders and other emergency personnel; or

(II) access to a designated evacuation route.

(5) *Grant requirements.*—

(A) *Solicitations for grants.*—In providing grants under this subsection, the Secretary shall conduct a transparent and competitive national solicitation process to select eligible projects to receive grants under paragraph (3) and subparagraphs (A), (B), and (C) of paragraph (4).

(B) *Applications.*—

(i) *In general.*—To be eligible to receive a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4), an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines to be necessary.

(ii) *Projects in certain areas.*—If a project is proposed to be carried out by the eligible entity, in whole or in part, within a base floodplain, the eligible entity shall—

(I) as part of the application, identify the floodplain in which the project is to be located and disclose that information to the Secretary; and

(II) indicate in the application whether, if selected, the eligible entity will implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(C) *Eligibilities.*—The Secretary may make a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) only for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49;

(iii) a facility or service for intercity rail passenger transportation (as defined in section 24102 of title 49); or

(iv) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(D) *System resilience.*—A project for which a grant is provided under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that the Secretary determines are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installing of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways; and

(iv) upgrades to and installation of flood gates to protect tunnel entrances.

(E) *Federal cost share.*—

(i) *Planning grant.*—The Federal share of the cost of a planning activity carried out using a planning grant under paragraph (3) shall be 100 percent.

(ii) *Resilience grants.*—

(I) *In general.*—Except as provided in subclause (II) and subsection (e)(1), the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) shall not exceed 80 percent of the total project cost.

(II) *Tribal projects.*—On the determination of the Secretary, the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) by an Indian tribe (as defined in section 207(m)(1)) may be up to 100 percent.

(iii) *Non-federal share.*—The eligible entity may use Federal funds other than Federal funds provided under this subsection to meet the non-Federal cost share requirement for a project carried out with a grant under this subsection.

(F) *Eligible project costs.*—

(i) *Resilience grant projects.*—Eligible project costs for activities funded with a grant under subparagraph (A), (B), or (C) of paragraph (4) may include the costs of—

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

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

(ii) *Planning grants.*—Eligible project costs for activities funded with a grant under paragraph (3) may include the costs of development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of that paragraph.

(G) *Limitations.*—

(i) *In general.*—An eligible entity that receives a grant under subparagraph (A), (B), or (C) of paragraph (4)—

(I) may use not more than 40 percent of the amount of the grant for the construction of new capacity; and

(II) may use not more than 10 percent of the amount of the grant for activities described in subparagraph (F)(i)(I).

(ii) *Limit on certain activities.*—For each fiscal year, not more than 25 percent of the total amount provided under this subsection may be used for projects described in subparagraph (C)(iii).

(H) *Distribution of grants.*—

(i) *In general.*—Subject to the availability of funds, an eligible entity may request and the Secretary may distribute funds for a grant under this subsection on a

*multiyear basis, as the Secretary determines to be necessary.*

*(ii) Rural set-aside.—Of the amounts made available to carry out this subsection for each fiscal year, the Secretary shall use not less than 25 percent for grants for projects located in areas that are outside an urbanized area with a population of over 200,000.*

*(iii) Tribal set-aside.—Of the amounts made available to carry out this subsection for each fiscal year, the Secretary shall use not less than 2 percent for grants to Indian tribes (as defined in section 207(m)(1)).*

*(iv) Reallocation.—For any fiscal year, if the Secretary determines that the amount described in clause (ii) or (iii) will not be fully utilized for the grant described in that clause, the Secretary may reallocate the unutilized funds to provide grants to other eligible entities under this subsection.*

*(6) Consultation.—In carrying out this subsection, the Secretary shall—*

*(A) consult with the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Secretary of Commerce; and*

*(B) solicit technical support from the Administrator of the Federal Emergency Management Agency.*

*(7) Grant administration.—The Secretary may—*

*(A) retain not more than a total of 5 percent of the funds made available to carry out this subsection and to review applications for grants under this subsection; and*

*(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under this subsection.*

*(e) Resilience Improvement Plan and Lower Non-Federal Share.—*

*(1) Federal share reductions.—*

*(A) In general.—A State that receives funds apportioned to the State under section 104(b)(8) or an eligible entity that receives a grant under subsection (d) shall have the non-Federal share of a project carried out with the funds or grant, as applicable, reduced by an amount described in subparagraph (B) if the State or eligible entity meets the applicable requirements under that subparagraph.*

*(B) Amount of reductions.—*

*(i) Resilience improvement plan.—Subject to clause (iii), the amount of the non-Federal share of the costs of a project carried out with funds apportioned to a State under section 104(b)(8) or a grant under subsection (d) shall be reduced by 7 percentage points if—*

*(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the State or eligible entity has—*

*(aa) developed a resilience improvement plan in accordance with this subsection; and*

(bb) prioritized the project on that resilience improvement plan; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that has—

(aa) developed a resilience improvement plan in accordance with this subsection; and

(bb) prioritized the project on that resilience improvement plan.

(ii) *Incorporation of resilience improvement plan in other planning.*—Subject to clause (iii), the amount of the non-Federal share of the cost of a project carried out with funds under subsection (c) or a grant under subsection (d) shall be reduced by 3 percentage points if—

(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the resilience improvement plan developed in accordance with this subsection has been incorporated into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that incorporated a resilience improvement plan into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable.

(iii) *Limitations.*—

(I) *Maximum reduction.*—A State or eligible entity may not receive a reduction under this paragraph of more than 10 percentage points for any single project carried out with funds under subsection (c) or a grant under subsection (d).

(II) *No negative non-federal share.*—A reduction under this paragraph shall not reduce the non-Federal share of the costs of a project carried out with funds under subsection (c) or a grant under subsection (d) to an amount that is less than zero.

(2) *Plan contents.*—A resilience improvement plan referred to in paragraph (1)—

(A) shall be for the immediate and long-range planning activities and investments of the State or metropolitan planning organization with respect to resilience of the surface transportation system within the boundaries of the State or metropolitan planning organization, as applicable;

(B) shall demonstrate a systemic approach to surface transportation system resilience and be consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165);



(C) shall include a risk-based assessment of vulnerabilities of transportation assets and systems to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperatures, and earthquakes;

(D) may—

(i) designate evacuation routes and strategies, including multimodal facilities, designated with consideration for individuals without access to personal vehicles;

(ii) plan for response to anticipated emergencies, including plans for the mobility of—

(I) emergency response personnel and equipment; and

(II) access to emergency services, including for vulnerable or disadvantaged populations;

(iii) describe the resilience improvement policies, including strategies, land-use and zoning changes, investments in natural infrastructure, or performance measures that will inform the transportation investment decisions of the State or metropolitan planning organization with the goal of increasing resilience;

(iv) include an investment plan that—

(I) includes a list of priority projects; and

(II) describes how funds apportioned to the State under section 104(b)(8) or provided by a grant under the program would be invested and matched, which shall not be subject to fiscal constraint requirements; and

(v) use science and data and indicate the source of data and methodologies; and

(E) shall, as appropriate—

(i) include a description of how the plan will improve the ability of the State or metropolitan planning organization—

(I) to respond promptly to the impacts of weather events and natural disasters; and

(II) to be prepared for changing conditions, such as sea level rise and increased flood risk;

(ii) describe the codes, standards, and regulatory framework, if any, adopted and enforced to ensure resilience improvements within the impacted area of proposed projects included in the resilience improvement plan;

(iii) consider the benefits of combining hard surface transportation assets, and natural infrastructure, through coordinated efforts by the Federal Government and the States;

(iv) assess the resilience of other community assets, including buildings and housing, emergency management assets, and energy, water, and communication infrastructure;

(v) use a long-term planning period; and

(vi) include such other information as the State or metropolitan planning organization considers appropriate.

(3) *No new planning requirements.*—Nothing in this section requires a metropolitan planning organization or a State to develop a resilience improvement plan or to include a resilience improvement plan under the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable, of the metropolitan planning organization or State.

(f) *Monitoring.*—

(1) *In general.*—Not later than 18 months after the date of enactment of this section, the Secretary shall—

(A) establish, for the purpose of evaluating the effectiveness and impacts of projects carried out with a grant under subsection (d)—

(i) subject to paragraph (2), transportation and any other metrics as the Secretary determines to be necessary; and

(ii) procedures for monitoring and evaluating projects based on those metrics; and

(B) select a representative sample of projects to evaluate based on the metrics and procedures established under subparagraph (A).

(2) *Notice.*—Before adopting any metrics described in paragraph (1), the Secretary shall—

(A) publish the proposed metrics in the Federal Register; and

(B) provide to the public an opportunity for comment on the proposed metrics.

(g) *Reports.*—

(1) *Reports from eligible entities.*—Not later than 1 year after the date on which a project carried out with a grant under subsection (d) is completed, the eligible entity that carried out the project shall submit to the Secretary a report on the results of the project and the use of the funds awarded.

(2) *Reports to congress.*—

(A) *Annual reports.*—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and publish on the website of the Department of Transportation, an annual report that describes the implementation of the program during the preceding calendar year, including—

(i) each project for which a grant was provided under subsection (d);

(ii) information relating to project applications received;

(iii) the manner in which the consultation requirements were implemented under subsection (d);

(iv) recommendations to improve the administration of subsection (d), including whether assistance from additional or fewer agencies to carry out the program is appropriate;

(v) the period required to disburse grant funds to eligible entities based on applicable Federal coordination requirements; and

(vi) a list of facilities that repeatedly require repair or reconstruction due to emergency events.

(B) Final report.—Not later than 5 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report that includes the results of the reports submitted under subparagraph (A).

\* \* \* \* \*

## TITLE 23—HIGHWAYS

### CHAPTER 2—OTHER HIGHWAYS

\* \* \* \* \*

#### § 201. Federal lands and tribal transportation programs

(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

(b) AVAILABILITY OF FUNDS.—

(1) AVAILABILITY.— \* \* \*

\* \* \* \* \*

(7) FEDERAL SHARE.—

(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be [determined in accordance with section 120] be up to 100 percent.

(c) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.— \* \* \*

\* \* \* \* \*

(6) DATA COLLECTION.—

(A) DATA COLLECTION.—

(i) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program.

(ii) REQUIREMENT.—Data collected to implement the tribal transportation program shall be in accordance with the Indian Self-Determination and Education As-

sistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.).

\* \* \* \* \*

(8) FUNDING.—

(A) IN GENERAL.—To carry out the activities described in this subsection for Federal lands transportation facilities, Federal lands access transportation facilities, and other federally owned roads open to public travel (as that term is defined in section 125(e)), the Secretary shall for each fiscal year combine and use not greater than [5 percent] 20 percent of the funds authorized for programs under sections 203 and 204.

\* \* \* \* \*

(e) TRANSFERS.—

(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

\* \* \* \* \*

(f) Alternative Contracting Methods.—

(1) In general.—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), a contracting method available to a State under this title may be used by the Secretary, on behalf of—

(A) a Federal land management agency, in using any funds pursuant to section 203, 204, or 308;

(B) a Federal land management agency, in using any funds pursuant to section 1535 of title 31 for any of the eligible uses described in sections 203(a)(1) and 204(a)(1) and paragraphs (1) and (2) of section 308(a); or

(C) a Tribal government, in using funds pursuant to section 202(b)(7)(D).

(2) Methods described.—The contracting methods referred to in paragraph (1) shall include, at a minimum—

(A) project bundling;

(B) bridge bundling;

(C) design-build contracting;

(D) 2-phase contracting;

(E) long-term concession agreements; and

(F) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

(3) Effect.—Nothing in this subsection—

(A) affects the application of the Federal share for the project carried out with a contracting method under this subsection; or

(B) modifies the point of obligation of Federal salaries and expenses.

\* \* \* \* \*

§ 202. Tribal transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(7) TRIBAL TECHNICAL ASSISTANCE CENTERS.— \* \* \*

\* \* \* \* \*

(10) COMPETITIVE BIDDING.—

(A) CONSTRUCTION.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450e(b))] (25 U.S.C. 5307(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

(b) FUNDS DISTRIBUTION.—

(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(4) TRANSFERRED FUNDS.—

(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under *the* Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.),<sup>1</sup> if the Indian tribal government—

(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with<sup>1</sup> Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.).<sup>1</sup>

(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.),<sup>1</sup> contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

(B) EXCLUSION OF AGENCY PARTICIPATION.— \* \* \*

\* \* \* \* \*

(F) ELIGIBILITY.—

(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability

during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.)<sup>1</sup> during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.)<sup>1</sup>

(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.)<sup>1</sup>

(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.)<sup>1</sup> the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(c) PLANNING.—

(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian

Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.).<sup>1</sup>

(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

(A) selected by the Indian tribal government from the transportation improvement program; and

(B) subject to the approval of the Secretary of the Interior and the Secretary.

(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving [deficient bridges eligible for the tribal transportation program] *bridges eligible for the tribal transportation program classified as in poor condition, having low load capacity, or needing geometric improvements.*

[(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 3 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.]

(2) *Use of funds.—Funds made available to carry out this subsection shall be used—*

(A) *to carry out any planning, design, engineering, preconstruction, construction, and inspection of new or replacement tribal transportation facility bridges;*

(B) *to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or*

(C) *to implement any countermeasure for tribal transportation facility bridges classified as in poor condition, having a low load capacity, or needing geometric improvements, including multiple-pipe culverts.*

(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

(A) have an opening of not less than 20 feet;

(B) be classified as a tribal transportation facility; and

(C) be [structurally deficient or functionally obsolete] *classified as in poor condition, having a low load capacity, or needing geometric improvements.*



(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

(e) SAFETY.—

(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than [2 percent] 4 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

\* \* \* \* \*

§ 203. Federal lands transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

(A) \* \* \*

\* \* \* \* \*

(D) not more [\$10,000,000] \$20,000,000 of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv)(I).

\* \* \* \* \*

(6) Native plant materials.—In carrying out an activity described in paragraph (1), the entity carrying out the activity shall consider, to the maximum extent practicable—

- (A) the use of locally adapted native plant materials; and
(B) designs that minimize runoff and heat generation.

\* \* \* \* \*

(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

(e) Efficient Implementation of NEPA.—

(1) Definitions.—In this subsection:

(A) Environmental document.—The term ‘environmental document’ means an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) *Project.*—The term ‘project’ means a highway project, public transportation capital project, or multimodal project that—

- (i) receives funds under this title; and
- (ii) is authorized under this section or section 204.

(C) *Project sponsor.*—The term ‘project sponsor’ means the Federal land management agency that seeks or receives funds under this title for a project.

(2) *Environmental review to be completed by federal highway administration.*—The Federal Highway Administration may prepare an environmental document pursuant to the implementing procedures of the Federal Highway Administration to comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

- (A) requested by a project sponsor; and
- (B) all areas of analysis required by the project sponsor can be addressed.

(3) *Federal land management agencies adoption of existing environmental review documents.*—

(A) *In general.*—To the maximum extent practicable, if the Federal Highway Administration prepares an environmental document pursuant to paragraph (2), that environmental document shall address all areas of analysis required by a Federal land management agency.

(B) *Independent evaluation.*—Notwithstanding any other provision of law, a Federal land management agency shall not be required to conduct an independent evaluation to determine the adequacy of an environmental document prepared by the Federal Highway Administration pursuant to paragraph (2).

(C) *Use of same document.*—In authorizing or implementing a project, a Federal land management agency may use an environmental document previously prepared by the Federal Highway Administration for a project addressing the same or substantially the same action to the same extent that the Federal land management agency could adopt or use a document previously prepared by another Federal agency.

(4) *Application by federal land management agencies of categorical exclusions established by federal highway administration.*—In carrying out requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project, the project sponsor may use categorical exclusions designated under that Act in the implementing regulations of the Federal Highway Administration, subject to the conditions that—

(A) the project sponsor makes a determination, in consultation with the Federal Highway Administration, that the categorical exclusion applies to the project;

(B) the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project

*sponsor, except any list of the project sponsor that designates categorical exclusions.*

*(5) Mitigation commitments.—The Secretary shall assist the Federal land management agency with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the Secretary in accordance with this subsection.*

**§ 204. Federal lands access program**

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, *context-sensitive solutions*, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

- (i) adjacent vehicular parking areas , *including interpretive panels in or adjacent to those areas*;
- (ii) acquisition of necessary scenic easements and scenic or historic sites;
- (iii) provisions for pedestrians and bicycles;
- (iv) environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
- (v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; **[and]**
- (vi) contextual wayfinding markers;*
- (vii) landscaping;*
- (viii) cooperative mitigation of visual blight, including screening or removal; and*
- [(vi)] (ix)** other appropriate public road facilities, as determined by the Secretary;

\* \* \* \* \*

*(6) Native plant materials.—In carrying out an activity described in paragraph (1), the Secretary shall ensure that the entity carrying out the activity considers, to the maximum extent practicable—*

- (A) the use of locally adapted native plant materials; and*
- (B) designs that minimize runoff and heat generation.*

\* \* \* \* \*

**§ 206. Recreational trails program**

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

(1) MOTORIZED RECREATION.— \* \* \*

\* \* \* \* \*

(d) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.—Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that—

(A) \* \* \*

\* \* \* \* \*

(G) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the [use of recreational trails] *uses of recreational trails*, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

\* \* \* \* \*

(i) CONTRACT AUTHORITY.—Funds authorized to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

(j) *Use of Other Apportioned Funds.*—Funds apportioned to a State under section 104(b) that are obligated for a recreational trail or a related project shall be administered as if the funds were made available to carry out this section.

**§ 207. Tribal transportation self-governance program**

(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a program to be known as the tribal transportation self-governance program. The Secretary may delegate responsibilities for administration of the program as the Secretary determines appropriate.

(b) ELIGIBILITY.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(g) COST PRINCIPLES.—In administering funds received under this section, an Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 106 of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450j-1)] (25 U.S.C. 5325), her provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit conducted pursuant to this subsection shall be subject to the provisions of section 106(f) of that Act [(25 U.S.C. 450j-1(f))] (25 U.S.C. 5325(f)).

\* \* \* \* \*

(1) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Except to the extent in conflict with this section (as determined by the Secretary), the following provisions of the Indian Self-Determination and Education Assistance Act shall apply to compact and funding agreements (except that any reference to the Secretary of the Interior or the Secretary of Health and Human Services in such provisions shall be treated as a reference to the Secretary of Transportation):

(1) Subsections (a), (b), (d), (g), and (h) of section 506 of such Act [(25 U.S.C. 458aaa-5)] (25 U.S.C. 5386),<sup>1</sup> relating to general provisions.

(2) Subsections (b) through (e) and (g) of section 507 of such Act [(25 U.S.C. 458aaa-6)] (25 U.S.C. 5387),<sup>1</sup> relating to provisions relating to the Secretary of Health and Human Services.

(3) Subsections (a), (b), (d), (e), (g), (h), (i), and (k) of section 508 of such Act [(25 U.S.C. 458aaa-7)] (25 U.S.C. 5388),<sup>1</sup> relating to transfer of funds.

(4) Section 510 of such Act [(25 U.S.C. 458aaa-9)] (25 U.S.C. 5390),<sup>1</sup> relating to Federal procurement laws and regulations.

(5) Section 511 of such Act [(25 U.S.C. 458aaa-10)] (25 U.S.C. 5391),<sup>1</sup> relating to civil actions.

(6) Subsections (a)(1), (a)(2), and (c) through (f) of section 512 of such Act [(25 U.S.C. 458aaa-11)] (25 U.S.C. 5392),<sup>1</sup> relating to facilitation, except that subsection (c)(1) of that section shall be applied by substituting “transportation facilities and other facilities” for “school buildings, hospitals, and other facilities”.

(7) Subsections (a) and (b) of section 515 of such Act [(25 U.S.C. 458aaa-14)] (25 U.S.C. 5395),<sup>1</sup> relating to disclaimers.

(8) Subsections (a) and (b) of section 516 of such Act [(25 U.S.C. 458aaa-15)] (25 U.S.C. 5396),<sup>1</sup> relating to application of title I provisions.

(9) Section 518 of such Act [(25 U.S.C. 458aaa-17)] (25 U.S.C. 5398),<sup>1</sup> relating to appeals.

(m) DEFINITIONS.—

(1) IN GENERAL.—In this section, the following definitions apply (except as otherwise expressly provided):

(A) COMPACT.—

(2) APPLICABILITY OF OTHER DEFINITIONS.—In this section, the definitions set forth in sections 4 and [505] 501<sup>1</sup> of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450b; 458aaa)] (25 U.S.C. 5304; 5381)<sup>1</sup> apply, except as otherwise expressly provided in this section.

\* \* \* \* \*

§ 208. *Safe routes to school*

(a) *Definitions.*—In this section:

(1) *In the vicinity of schools.*—The term ‘in the vicinity of schools’, with respect to a school, means the approximately 2-mile area within bicycling and walking distance of the school.

(2) *Primary, middle, and high schools.*—The term ‘primary, middle, and high schools’ means schools providing education from kindergarten through 12th grade.

(b) *Establishment.*—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary, middle, and high schools.

(c) *Purposes.*—The purposes of the program established under subsection (b) shall be—

(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

(d) *Apportionment of Funds.*—

(1) *In general.*—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States so that each State receives the amount equal to the proportion that—

(A) the total student enrollment in primary, middle, and high schools in each State; bears to

(B) the total student enrollment in primary, middle, and high schools in all States.

(2) *Minimum apportionment.*—No State shall receive an apportionment under this section for a fiscal year of less than \$1,000,000.

(3) *Set-aside for administrative expenses.*—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than \$3,000,000 of those amounts for the administrative expenses of the Secretary in carrying out this section.

(4) *Determination of student enrollments.*—Determinations under this subsection relating to student enrollments shall be made by the Secretary.

(e) *Administration of Amounts.*—Amounts apportioned to a State under this section shall be administered by the State department of transportation.

(f) *Eligible Recipients.*—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, Tribal, and regional agencies, including non-profit organizations, that demonstrate an ability to meet the requirements of this section.

(g) *Eligible Projects and Activities.*—

(1) *Infrastructure-related projects.*—

(A) *In general.*—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

(B) *Location of projects.*—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

(2) *Noninfrastructure-related activities.*—

(A) *In general.*—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to

*encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.*

*(B) Allocation.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this paragraph.*

*(3) Safe routes to school coordinator.—Each State shall use a sufficient amount of the apportionment of the State for each fiscal year to fund a full-time position of coordinator of the safe routes to school program of the State.*

*(h) Clearinghouse.—*

*(1) In general.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools—*

*(A) to operate a national safe routes to school clearinghouse;*

*(B) to develop information and educational programs on safe routes to school; and*

*(C) to provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.*

*(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (d)(3).*

*(i) Treatment of Projects.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1.*

\* \* \* \* \*

**§ 217. Bicycle transportation and pedestrian walkways**

**(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—**Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(4) of this title for construction of **[pedestrian walkways and bicycle]***pedestrian walkways and bicycle and shared micromobility* transportation facilities and for carrying out nonconstruction projects related to **[safe bicycle use]** *safe access for bicyclists and pedestrians.*

\* \* \* \* \*

**(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—**Each State receiving an apportionment under sections 104(b)(2) and **[104(b)(3)]** *104(b)(4)* of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation **[a position]** *up to 2 positions* of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

**(e) BRIDGES.—**In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is lo-

cated on a highway on which **【bicycles】** *pedestrians or bicyclists* are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of **【bicycles】** *pedestrians or bicyclists* can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway **【and a bicycle】** or a *bicycle or shared micromobility* transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

\* \* \* \* \*

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

(1) BICYCLE TRANSPORTATION FACILITY.— \* \* \*

\* \* \* \* \*

**【(2) ELECTRIC BICYCLE.—**The term “electric bicycle” means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.**】**

(2) *Electric bicycle.*—

(A) *In general.*—*The term ‘electric bicycle’ means a bicycle—*

(i) *equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts;*

(ii) *that can safely share a bicycle transportation facility with other users of such facility; and*

(iii) *that is a class 1 electric bicycle, class 2 electric bicycle, or class 3 electric bicycle.*

(B) *Classes of electric bicycles.*—

(i) *Class 1 electric bicycle.*—*For purposes of subparagraph (A)(iii), the term ‘class 1 electric bicycle’ means an electric bicycle, other than a class 3 electric bicycle, equipped with a motor that—*

(I) *provides assistance only when the rider is pedaling; and*

(II) *ceases to provide assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.*

(ii) *Class 2 electric bicycle.*—*For purposes of subparagraph (A)(iii), the term ‘class 2 electric bicycle’ means an electric bicycle equipped with a motor that—*

(I) *may be used exclusively to propel the bicycle; and*

(II) *is not capable of providing assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.*

(iii) *Class 3 electric bicycle.*—*For purposes of subparagraph (A)(iii), the term ‘class 3 electric bicycle’ means an electric bicycle equipped with a motor that—*

(I) *provides assistance only when the rider is pedaling; and*



*(II) ceases to provide assistance when the speed of the bicycle reaches or exceeds 28 miles per hour.*

\* \* \* \* \*

**【§ 218. Alaska Highway**

(a) Notwithstanding any other provision of law upon agreement with the State of Alaska, the Secretary is authorized to expend on the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum.

(b) For purposes of this section, the term “Alaska Marine Highway System” includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.】

*§ 218. Alaska Highway*

*(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border at Beaver Creek, Yukon Territory, to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, Alaska, the Secretary may provide for the necessary reconstruction of the highway using funds awarded through an applicable competitive grant program, if the highway meets all applicable eligibility requirements for the program, except for the specific requirements established by the agreement for the Alaska Highway Project between the Government of the United States and the Government of Canada. In addition to the funds described in the previous sentence, notwithstanding any other provision of law and on agreement with the State of Alaska, the Secretary is authorized to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. No expenditures shall be made for the construction of the portion of such highways that are in Canada unless an agreement is in place between the Government of Canada and the Government of the United States (including an agreement in existence on the date of enactment of the Surface Transportation Reauthorization Act of 2021) that provides, in part, that the Canadian Government—*

*(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;*

*(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;*

*(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;*

*(4) will continue to grant reciprocal recognition of vehicle registration and driver’s licenses in accordance with agreements between the United States and Canada; and*

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.

(c) For purposes of this section, the term 'Alaska Marine Highway System' includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

\* \* \* \* \*

## TITLE 23—HIGHWAYS

### CHAPTER 3—GENERAL PROVISIONS

Sec.

#### § 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

\* \* \* \* \*

#### § 308. Cooperation with Federal and State agencies and foreign countries

(a) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(4) *Alternative contracting methods.*—

(A) *In general.*—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), in performing services under paragraph (1), the Secretary may use any contracting method available to a State under this title.

(B) *Methods described.*—The contracting methods referred to in subparagraph (A) shall include, at a minimum—

- (i) project bundling;
- (ii) bridge bundling;
- (iii) design-build contracting;
- (iv) 2-phase contracting;
- (v) long-term concession agreements; and
- (vi) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

\* \* \* \* \*

#### § 313. Buy America

(a) \* \* \*

\* \* \* \* \*

(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.— \* \* \*

\* \* \* \* \*

(g) Waivers.—

(1) In general.—Not less than 15 days before issuing a waiver under this section, the Secretary shall provide to the public—

(A) notice of the proposed waiver;

(B) an opportunity for comment on the proposed waiver; and

(C) the reasons for the proposed waiver.

(2) Report.—Not less frequently than annually, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the waivers provided under this section.

[(g)] (h) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.

\* \* \* \* \*

§ 323. Donations and credits

(a) DONATIONS OF PROPERTY BEING ACQUIRED.— \* \* \*

\* \* \* \* \*

(d) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall clearly indicate that—

\* \* \* \* \*

§ 326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) TERM.—A memorandum of understanding—

[(A) shall have a term of not more than 3 years; and]

(A) except as provided under subparagraph (C), shall have a term of not more than 3 years;

(B) shall be renewable[.] ; and

*(C) shall have a term of 5 years, in the case of a State that has assumed the responsibility for categorical exclusions under this section for not fewer than 10 years.*

\* \* \* \* \*

**§ 327. Surface transportation project delivery program**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery program (referred to in this section as the “program”).

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys’ fees directly attributable to eligible activities associated with the project , *including the payment of fees awarded under section 2412 of title 28.*

\* \* \* \* \*

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) \* \* \*

\* \* \* \* \*

**[(5) have a term of not more than 5 years; and]**

*(5) except as provided under paragraph (7), have a term of not more than 5 years;*

**(6) be renewable[.] ; and**

*(7) for any State that has participated in a program under this section (or under a predecessor program) for at least 10 years, have a term of 10 years.*

\* \* \* \* \*

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall—

(A) not later than 180 days after the date of execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

(B) conduct annual audits during each of the first 4 years of State participation; **[and]**

*(C) in the case of an agreement period of greater than 5 years pursuant to subsection (c)(7), conduct an audit covering the first 5 years of the agreement period; and*

\* \* \* \* \*

**[(C)] (D) ensure that the time period for completing an [annual] audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days.**

(l) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under this section may, as appropriate and at the request of a local government—

(1) \* \* \*

\* \* \* \* \*

(m) AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under an agreement under this section shall be deemed to be an agency for the purposes of section 2412 of title 28.

\* \* \* \* \*

**§ 330. Program for eliminating duplication of environmental reviews**

(a) ESTABLISHMENT.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

*§ 331. Evaluation of projects within an operational right-of-way*

(a) Definitions.—

(1) Eligible project or activity.—

(A) *In general.—In this section, the term ‘eligible project or activity’ means a project or activity within an existing operational right-of-way (as defined in section 771.117(c)(22) of title 23, Code of Federal Regulations (or successor regulations))—*

*(i)(I) eligible for assistance under this title; or  
(II) administered as if made available under this title;*

*(ii) that is—*

*(I) a preventive maintenance, preservation, or highway safety improvement project (as defined in section 148(a)); or*

*(II) a new turn lane that the State advises in writing to the Secretary would assist public safety; and*

*(iii) that—*

*(I) is classified as a categorical exclusion under section 771.117 of title 23, Code of Federal Regulations (or successor regulations); or*

*(II) if the project or activity does not receive assistance described in clause (i) would be considered a categorical exclusion if the project or activity received assistance described in clause (i).*

*(B) Exclusion.—The term ‘eligible project or activity’ does not include a project to create a new travel lane.*

(2) Preliminary evaluation.—The term ‘preliminary evaluation’, with respect to an application described in subsection (b)(1), means an evaluation that is customary or practicable for the relevant agency to complete within a 45-day period for similar applications.

(3) Relevant agency.—The term ‘relevant agency’ means a Federal agency, other than the Federal Highway Administration, with responsibility for review of an application from a

*State for a permit, approval, or jurisdictional determination for an eligible project or activity.*

*(b) Action Required.—*

*(1) In general.—Subject to paragraph (2), not later than 45 days after the date of receipt of an application by a State for a permit, approval, or jurisdictional determination for an eligible project or activity, the head of the relevant agency shall—*

*(A) make at least a preliminary evaluation of the application; and*

*(B) notify the State of the results of the preliminary evaluation under subparagraph (A).*

*(2) Extension.—The head of the relevant agency may extend the review period under paragraph (1) by not more than 30 days if the head of the relevant agency provides to the State written notice that includes an explanation of the need for the extension.*

*(3) Failure to act.—If the head of the relevant agency fails to meet a deadline under paragraph (1) or (2), as applicable, the head of the relevant agency shall—*

*(A) not later than 30 days after the date of the missed deadline, submit to the State, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes why the deadline was missed; and*

*(B) not later than 14 days after the date on which a report is submitted under subparagraph (A), make publicly available, including on the internet, a copy of that report.*

**§ 332. Pollinator-friendly practices on roadsides and highway rights-of-way**

*(a) In General.—The Secretary shall establish a program to provide grants to eligible entities to carry out activities to benefit pollinators on roadsides and highway rights-of-way, including the planting and seeding of native, locally-appropriate grasses and wildflowers, including milkweed.*

*(b) Eligible Entities.—An entity eligible to receive a grant under this section is—*

*(1) a State department of transportation;*

*(2) an Indian tribe; or*

*(3) a Federal land management agency.*

*(c) Application.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a pollinator-friendly practices plan described in subsection (d).*

*(d) Pollinator-friendly Practices Plan.—*

*(1) In general.—An eligible entity shall include in the application under subsection (c) a plan that describes the pollinator-friendly practices that the eligible entity has implemented or plans to implement, including—*

*(A) practices relating to mowing strategies that promote early successional vegetation and limit disturbance during periods of highest use by target pollinator species on roadsides and highway rights-of-way, such as—*

(i) *reducing the mowing swath outside of the State-designated safety zone;*

(ii) *increasing the mowing height;*

(iii) *reducing the mowing frequency;*

(iv) *refraining from mowing monarch and other pollinator habitat during periods in which monarchs or other pollinators are present;*

(v) *use of a flushing bar and cutting at reduced speeds to reduce pollinator deaths due to mowing; or*

(vi) *reducing raking along roadsides and highway rights-of-way;*

(B) *implementation of an integrated vegetation management plan that includes approaches such as mechanical tree and brush removal, targeted and judicious use of herbicides, and mowing, to address weed issues on roadsides and highway rights-of-way;*

(C) *planting or seeding of native, locally-appropriate grasses and wildflowers, including milkweed, on roadsides and highway rights-of-way to enhance pollinator habitat, including larval host plants;*

(D) *removing nonnative grasses from planting and seeding mixes, except for use as nurse or cover crops;*

(E) *obtaining expert training or assistance on pollinator-friendly practices, including—*

(i) *native plant identification;*

(ii) *establishment and management of locally-appropriate native plants that benefit pollinators;*

(iii) *land management practices that benefit pollinators; and*

(iv) *pollinator-focused integrated vegetation management; or*

(F) *any other pollinator-friendly practices the Secretary determines to be appropriate.*

(2) *COORDINATION.—In developing a plan under paragraph (1), an eligible entity that is a State department of transportation or a Federal land management agency shall coordinate with applicable State agencies, including State agencies with jurisdiction over agriculture and fish and wildlife.*

(3) *Consultation.—In developing a plan under paragraph (1)—*

(A) *an eligible entity that is a State department of transportation or a Federal land management agency shall consult with affected or interested Indian tribes; and*

(B) *any eligible entity may consult with nonprofit organizations, institutions of higher education, metropolitan planning organizations, and any other relevant entities.*

(e) *Award of Grants.—*

(1) *In general.—The Secretary shall provide a grant to each eligible entity that submits an application under subsection (c), including a plan under subsection (d), that the Secretary determines to be satisfactory.*

(2) *Amount of grants.—The amount of a grant under this section—*

(A) shall be based on the number of pollinator-friendly practices the eligible entity has implemented or plans to implement; and

(B) shall not exceed \$150,000.

(f) *Use of Funds.*—An eligible entity that receives a grant under this section shall use the funds for the implementation, improvement, or further development of the plan under subsection (d).

(g) *Federal Share.*—The Federal share of the cost of an activity carried out with a grant under this section shall be 100 percent.

(h) *Best Practices.*—The Secretary shall develop and make available to eligible entities best practices for, and a priority ranking of, pollinator-friendly practices on roadsides and highway rights-of-way.

(i) *Technical Assistance.*—On request of an eligible entity that receives a grant under this section, the Secretary shall provide technical assistance with the implementation, improvement, or further development of a plan under subsection (d).

(j) *Administrative Costs.*—For each fiscal year, the Secretary may use not more than 2 percent of the amounts made available to carry out this section for the administrative costs of carrying out this section.

(k) *Report.*—Not later than 1 year after the date on which the first grant is provided under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the program under this section.

**(l) Authorization of Appropriations.—**

(1) *In general.*—There is authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2022 through 2026.

(2) **Availability.**—Amounts made available under this section shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

\* \* \* \* \*

## TITLE 23—HIGHWAYS

### CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

#### § 501. Definitions

In this chapter, the following definitions apply:

(1) **FEDERAL LABORATORY.**— \* \* \*

\* \* \* \* \*

(a) **NATIONAL HIGHWAY INSTITUTE.**—

(1) **IN GENERAL.**— \* \* \*

\* \* \* \* \*

(g) **FREIGHT CAPACITY BUILDING PROGRAM.**—

(1) **ESTABLISHMENT.**— \* \* \*

\* \* \* \* \*



(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or **make grants or to** *make grants to* and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

\* \* \* \* \*

**§ 503. Research and technology development and deployment**

(a) IN GENERAL.—The Secretary shall—

- (1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and
- (2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary under **section 508** *section 6503 of title 49*.

(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

(1) OBJECTIVES.— \* \* \*

\* \* \* \* \*

(C) carry out research, testing, and evaluation activities; **and**

(D) provide technology transfer and technical assistance~~].~~; and

*(E) engage with public and private entities to spur advancement of emerging transformative innovations through accelerated market readiness; and*

*(F) consult frequently with public and private entities on new transportation technologies.*

(2) IMPROVING HIGHWAY SAFETY.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) \* \* \*

\* \* \* \* \*

(ix) safety measures for vulnerable road users, including bicyclists and pedestrians;

*(x) safety measures to reduce the number of wildlife-vehicle collisions;*

**[(x)] xi** safety policy studies;

**[(xi)] xii** human factors studies and measures;

**[(xii)] xiii** safety technology deployment;

**[(xiii)] xiv** safety workforce professional capacity building initiatives;

**[(xiv)] xv** safety program and process improvements; and

[(xv)] *xvi* tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(3) IMPROVING INFRASTRUCTURE INTEGRITY.—

(A) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

(i) \* \* \*

\* \* \* \* \*

(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

(i) \* \* \*

\* \* \* \* \*

(viii) to study vulnerabilities of the transportation system to seismic activities and extreme *weather* events and methods to reduce those vulnerabilities.

(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

(i) \* \* \*

\* \* \* \* \*

(xv) studies to improve flexibility and resiliency of infrastructure systems to withstand *extreme weather events and* climate variability;

\* \* \* \* \*

(xviii) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; **[and]**

(xix) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions $[\cdot]$  ; *and*

(xx) *studies on the deployment and revenue potential of the deployment of energy and broadband infrastructure in highway rights-of-way, including potential adverse impacts of the use or nonuse of those rights-of-way.*

\* \* \* \* \*

(6) EXPLORATORY ADVANCED RESEARCH.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

(A) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; **[and]**

(B) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact,

productivity, and safety aspects of highway and intermodal transportation systems【.】; and

(C) to support research on non-market-ready technologies in consultation with public and private entities.

(7) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

(A) IN GENERAL.—The Secretary shall continue to operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

(B) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support *innovations by leading—*

(i) the conduct of highway research and development relating to emerging highway technology;

(ii) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

(iii) the development of innovative highway products and practices; **【and】**

(iv) the conduct of long-term, high-risk research to improve the materials used in highway infrastructure【.】; and

(v) *the evaluation of information from accelerated market readiness efforts, including non-market-ready technologies, in consultation with other offices of the Federal Highway Administration and key partners.*

(8) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

(A) IN GENERAL.—Not later than July 31, 2013, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the **【future highway and bridge needs of the United States and the backlog of current highway and bridge needs.】** *current conditions and future needs of highways, bridges, and tunnels of the United States, including—*

(i) *the conditions and performance of the highway network for freight movement;*

(ii) *intelligent transportation systems;*

(iii) *resilience needs; and*

(iv) *the backlog of current highway, bridge, and tunnel needs.*

\* \* \* \* \*

(9) *Analysis tools.—The Secretary may develop interactive modeling tools and databases that—*

(A) *track the full condition of highway assets, including interchanges, and the reconstruction history of those assets;*

(B) *can be used to assess transportation options;*

(C) *allow for the monitoring and modeling of network-level traffic flows on highways; and*

(D) *further Federal and State understanding of the importance of national and regional connectivity and the need*

*for long-distance and interregional passenger and freight travel by highway and other surface transportation modes.*

(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, *use of rights-of-way permissible under applicable law*, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

(A) \* \* \*

\* \* \* \* \*

(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; **[and]**

(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation**[.]**; *and*

(F) *disseminating and evaluating information from accelerated market readiness efforts, including non-market-ready technologies, to public and private entities.*

(2) IMPLEMENTATION.—

(A) \* \* \*

\* \* \* \* \*

(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

(i) establish and carry out demonstration programs; (ii) provide technical assistance, and training to researchers and developers; and

(iii) develop **[improved tools and methods to accelerate the adoption]** *and deploy improved tools and methods to accelerate the adoption of early-stage and proven innovative practices and technologies and, as the Secretary determines to be appropriate, support continued implementation of proven innovative practices and technologies as standard practices.*

(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

(i) IN GENERAL.— \* \* \*

\* \* \* \* \*

(D) Report.—*Not later than 2 years after the date of enactment of this subparagraph and every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available on an internet website a report that describes—*

(i) *the activities the Secretary has undertaken to carry out the program established under paragraph (1); and*

(ii) *how and to what extent the Secretary has worked to disseminate non-market-ready technologies to public and private entities.*

(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

(i) \* \* \*

\* \* \* \* \*

(C) *High-friction surface treatment application study.*—

(i) *Definition of institution.*—*In this subparagraph, the term ‘institution’ means a private sector entity, public agency, research university or other research institution, or organization representing transportation and technology leaders or other transportation stakeholders that, as determined by the Secretary, is capable of working with State highway agencies, the Federal Highway Administration, and the highway construction industry to develop and evaluate new products, design technologies, and construction methods that quickly lead to pavement improvements.*

(ii) *Study.*—*The Secretary shall seek to enter into an agreement with an institution to carry out a study on the use of natural and synthetic calcined bauxite as a high-friction surface treatment application on pavement.*

(iii) *Report.*—*Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit a report on the results of the study under clause (ii) to—*

(I) *the Committee on Environment and Public Works of the Senate;*

(II) *the Committee on Transportation and Infrastructure of the House of Representatives;*

(III) *the Federal Highway Administration; and*

(IV) *the American Association of State Highway and Transportation Officials.*

[(C)] (D) FUNDING.—The Secretary shall obligate for each of [fiscal years 2016 through 2020] *fiscal years 2022 through 2026* from funds made available to carry out this subsection \$12,000,000 to accelerate the deployment and implementation of pavement technology.

[(D)] (E) PUBLICATION.—

(D) PUBLICATION.—

(i) IN GENERAL.—Not less frequently than [annually] *once every 3 years*, the Secretary shall issue and make available to the public on an Internet website a report on the cost and benefits from deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

(ii) INCLUSIONS.—The report under clause (i) may include an analysis of—

- (I) Federal, State, and local cost savings;
- (II) project delivery time improvements;
- (III) reduced fatalities; **[and]**
- (IV) congestion impacts**[.]** ; and
- (V) *pavement monitoring and data collection practices;*
- (VI) *pavement durability and resilience;*
- (VII) *stormwater management;*
- (VIII) *impacts on vehicle efficiency;*
- (IX) *the energy efficiency of the production of paving materials and the ability of paving materials to enhance the environment and promote sustainability; and*
- (X) *integration of renewable energy in pavement designs.*

(4) ADVANCED TRANSPORTATION TECHNOLOGIES DEPLOYMENT and innovative mobility.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

**[(A) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment.]**

*(A) In general.—The Secretary shall provide grants to eligible entities to deploy, install, and operate advanced transportation technologies to improve safety, mobility, efficiency, system performance, intermodal connectivity, and infrastructure return on investment.*

(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

(i) reduce costs and improve return on investments, including through **[the enhanced use]** *optimization* of existing transportation capacity;

(ii) \* \* \*

\* \* \* \* \*

(v) collect, disseminate, and use real-time traffic, **[transit,]** *work zone, weather, transit, paratransit, parking, and other transportation-related information to improve mobility, reduce congestion, and provide for more efficient **[and accessible transportation]** , accessible, and integrated transportation and transportation services;*

*(vi) facilitate account-based payments for transportation access and services and integrate payment systems across modes;*

[(vi)] (vii) monitor transportation assets to improve infrastructure management, reduce maintenance costs, prioritize investment decisions, and ensure a state of good repair;

[(vii)] (viii) deliver economic benefits by reducing delays, improving system performance, and providing for the efficient and reliable movement of goods and services; [or]

[(viii)] (x) accelerate the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, autonomous vehicles, and other technologies.

(ix) incentivize travelers—

(I) to share trips during periods in which travel demand exceeds system capacity; or

(II) to shift trips to periods in which travel demand does not exceed system capacity; or

(C) APPLICATIONS.—

(i) REQUEST.—[Not later than 6 months after the date of enactment of this paragraph, and for every fiscal year thereafter] *Each fiscal year for which funding is made available for activities under this paragraph*, the Secretary shall request applications in accordance with clause (ii).

(ii) CONTENTS.—An application submitted under this subparagraph shall include the following:

(I) PLAN.—A plan to deploy and provide for the long-term operation and maintenance of advanced transportation and congestion management technologies to improve safety, *mobility*, efficiency, system performance, and return on investment.

(II) OBJECTIVES.—Quantifiable system performance improvements, such as—

(aa) reducing traffic-related crashes, congestion, and costs;

(bb) optimizing system efficiency; [and]

(cc) improving access to transportation services[.]; and

(dd) *facilitating payment for transportation services.*

(III) RESULTS.— \* \* \*

\* \* \* \* \*

(D) GRANT SELECTION.—

(i) GRANT AWARDS.—[Not later than 1 year after the date of enactment of this paragraph, and for every fiscal year thereafter] *Each fiscal year for which funding is made available for activities under this paragraph*, the Secretary shall award grants to not less than 5 and not more than 10 eligible entities.

(ii) GEOGRAPHIC DIVERSITY.—[In awarding]

(I) *In general.*—Subject to subclause (II), in awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States, including urban and rural areas.

*(II) Rural set-aside.—Not less than 20 percent of the amounts made available to carry out this paragraph shall be reserved for projects serving rural areas.*

(iii) TECHNOLOGY DIVERSITY.—In awarding a grant under this paragraph, the Secretary shall ensure, to the extent practicable, that grant recipients represent diverse technology solutions.

(E) USE OF GRANT FUNDS.—A grant recipient may use funds awarded under this paragraph to deploy advanced transportation and congestion management technologies, including—

(i) advanced traveler information systems;  
(ii) advanced transportation management technologies;

*(iii) advanced transportation technologies to improve emergency evacuation and response by Federal, State, and local authorities;*

[(iii)] *(iv) infrastructure maintenance, monitoring, and condition assessment;*

[(iv)] *(v) advanced public transportation systems;*

[(v)] *(vi) transportation system performance data collection, analysis, and dissemination systems;*

[(vi)] *(vii) advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;*

[(vii)] *(viii) integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;*

*(ix) integrated corridor management systems;*

*(x) advanced parking reservation or variable pricing systems;*

[(viii)] *(xi) electronic pricing, toll collection, and payment systems; [or]*

*(xii) technology that enhances high occupancy vehicle toll lanes, cordon pricing, or congestion pricing;*

*(xiii) integration of transportation service payment systems;*

[(ix)] *(xiv) advanced mobility [and access], access, and on-demand transportation service technologies, such as dynamic ridesharing and other shared-use mobility applications and information systems to support human services for elderly and disabled individuals [.]*

*; or*

*(xv) retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C-V2X) technology.*

(F) REPORT TO SECRETARY.—For each eligible entity that receives a grant under this paragraph, not later than 1 year after the entity receives the grant, and each year thereafter, the entity shall submit a report to the Secretary that describes—



(i) \* \* \*

\* \* \* \* \*

(IV) lessons learned and recommendations for future deployment strategies to optimize transportation **【efficiency and multimodal system performance】** *mobility, efficiency, multimodal system performance, and payment system performance*

(G) REPORT.—Not later than 3 years after the date that the first grant is awarded under this paragraph, and each year thereafter, the Secretary shall make available to the public on an Internet website a report that describes the effectiveness of grant recipients in meeting their projected deployment plans, including data provided under subparagraph (F) on how the program has—

(i) \* \* \*

\* \* \* \* \*

- (v) improved access to transportation alternatives;
- (vi) improved integration of payment systems;*
- 【(vi)】** *(vii) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;*
- 【(vii)】** *(viii) provided cost savings to transportation agencies, businesses, and the traveling public; or*
- 【(viii)】** *(ix) provided other benefits to transportation users and the general public.*

\* \* \* \* \*

(I) FUNDING.—

(i) IN GENERAL.—From funds made available to carry out subsection (b), this subsection, and sections 512 through 518, the Secretary shall set aside for grants awarded under subparagraph (D) \$60,000,000 for each of **【fiscal years 2016 through 2020】** *fiscal years 2022 through 2026*

\* \* \* \* \*

**【(J) FEDERAL SHARE.—The Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 50 percent of the cost of the project.】**

*(J) Federal share.—*

*(i) In general.—Except as provided in clause (ii), the Federal share of the cost of a project for which a grant is awarded under this subsection shall not exceed 50 percent.*

*(ii) Certain projects.—The Federal share of the cost of a project for which a grant is awarded under this subsection for activities described in subparagraph (E)(xv) shall not exceed 80 percent.*

\* \* \* \* \*

(N) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) ELIGIBLE ENTITY.—The term “eligible entity” means a State or local government, a transit agency, metropolitan planning organization [representing a population of over 200,000], or other political subdivision of a State or local government or a multijurisdictional group or a consortia of research institutions or academic institutions.

\* \* \* \* \*

(iii) MULTIJURISDICTIONAL GROUP.—The term “multijurisdictional group” means [a any] any combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State for which each member of the group—

\* \* \* \* \*

(4) ADVANCED TRANSPORTATION TECHNOLOGIES DEPLOYMENT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment.

(B) CRITERIA.—The Secretary shall develop criteria for selection of an eligible entity to receive a grant under this paragraph, including how the deployment of technology will—

(i) \* \* \*

\* \* \* \* \*

(5) Accelerated implementation and deployment of advanced digital construction management systems.—

(A) In general.—The Secretary shall establish and implement a program under the technology and innovation deployment program established under paragraph (1) to promote, implement, deploy, demonstrate, showcase, support, and document the application of advanced digital construction management systems, practices, performance, and benefits.

(B) Goals.—The goals of the accelerated implementation and deployment of advanced digital construction management systems program established under subparagraph (A) shall include—

(i) accelerated State adoption of advanced digital construction management systems applied throughout the construction lifecycle (including through the design and engineering, construction, and operations phases) that—

- (I) maximize interoperability with other systems, products, tools, or applications;
- (II) boost productivity;
- “(III) manage complexity;

(IV) reduce project delays and cost overruns; and  
 (V) enhance safety and quality;

(ii) more timely and productive information-sharing among stakeholders through reduced reliance on paper to manage construction processes and deliverables such as blueprints, design drawings, procurement and supply-chain orders, equipment logs, daily progress reports, and punch lists;

(iii) deployment of digital management systems that enable and leverage the use of digital technologies on construction sites by contractors, such as state-of-the-art automated and connected machinery and optimized routing software that allows construction workers to perform tasks faster, safer, more accurately, and with minimal supervision;

(iv) the development and deployment of best practices for use in digital construction management;

(v) increased technology adoption and deployment by States and units of local government that enables project sponsors—

(I) to integrate the adoption of digital management systems and technologies in contracts; and

(II) to weigh the cost of digitization and technology in setting project budgets;

(vi) technology training and workforce development to build the capabilities of project managers and sponsors that enables States and units of local government—

(I) to better manage projects using advanced construction management technologies; and

(II) to properly measure and reward technology adoption across projects of the State or unit of local government;

(vii) development of guidance to assist States in updating regulations of the State to allow project sponsors and contractors—

(I) to report data relating to the project in digital formats; and

(II) to fully capture the efficiencies and benefits of advanced digital construction management systems and related technologies;

(viii) reduction in the environmental footprint of construction projects using advanced digital construction management systems resulting from elimination of congestion through more efficient projects; and

(ix) enhanced worker and pedestrian safety resulting from increased transparency.

(C) *Funding.*—For each of fiscal years 2022 through 2026, the Secretary shall obligate from funds made available to carry out this subsection \$20,000,000 to accelerate the deployment and implementation of advanced digital construction management systems.

(D) *Publication.*—

(i) *In general.*—Not less frequently than annually, the Secretary shall issue and make available to the public on a website a report on—

(I) progress made in the implementation of advanced digital management systems by States; and

(II) the costs and benefits of the deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

(ii) *Inclusions.*—The report under clause (i) may include an analysis of—

(I) Federal, State, and local cost savings;

(II) project delivery time improvements;

(III) congestion impacts; and

(IV) safety improvements for roadway users and construction workers.

(6) *Center of excellence.*—

(A) *Definitions.*—In this paragraph:

(i) *Automated vehicle.*—The term ‘automated vehicle’ means a motor vehicle that—

(I) has a taxable gross weight (as defined in section 41.4482(b)–1 of title 26, Code of Federal Regulations (or successor regulations)) of 10,000 pounds or less; and

(II) is capable of performing the entire task of driving (including steering, accelerating and decelerating, and reacting to external stimulus) without human intervention.

(ii) *New mobility.*—The term ‘new mobility’ includes shared services such as—

(I) docked and dockless bicycles;

(II) docked and dockless electric scooters; and

(III) transportation network companies.

(B) *Establishment.*—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a Center of Excellence to collect, conduct, and fund research on the impacts of new mobility and automated vehicles on land use, urban design, transportation, real estate, equity, and municipal budgets.

(C) *PARTNERSHIPS.*—In establishing the Center of Excellence under subparagraph (B), the Secretary shall enter into appropriate partnerships with any institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or public or private research entity.

**§ 504. Training and education**

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under

paragraphs (1) through (4) of section 104(b) for surface transportation workforce development, training, and education, including—

(A) \* \* \*

\* \* \* \* \*

(C) student internships;

(D) *pre-apprenticeships, apprenticeships, and career opportunities for on-the-job training;*

[(D)] (E) university [or community college] , *college, community college, or vocational school* support;

[(E)] (F) education activities, including outreach, to develop interest and promote participation in surface transportation careers;

(G) *activities associated with workforce training and employment services, such as targeted outreach and partnerships with industry, economic development organizations, workforce development boards, and labor organizations;*

[(F)] (H) activities carried out by the National Highway Institute under subsection (a); and

[(G)] (I) local technical assistance programs under subsection (b).

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent, except for activities carried out under [paragraph (1)(G)] *paragraph (1)(I)*, for which the Federal share shall be 50 percent.

(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term “surface transportation workforce development, training, and education” means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, [including activities] *including—*

(A) *activities for women and minorities* [.] ;

(B) *activities that address current workforce gaps, such as work on construction projects, of State and local transportation agencies;*

(C) *activities to develop a robust surface transportation workforce with new skills resulting from emerging transportation technologies; and*

(D) *activities to attract new sources of job-creating investment.*

\* \* \* \* \*

(f) TRANSPORTATION EDUCATION [Development] AND TRAINING DEVELOPMENT AND DEPLOYMENT Program.—

[(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.]

(1) *Establishment.—The Secretary shall establish a program to make grants to educational institutions or State departments*

*of transportation, in partnership with industry and relevant Federal departments and agencies—*

*(A) to develop, test, and review new curricula and education programs to train individuals at all levels of the transportation workforce; or*

*(B) to implement the new curricula and education programs to provide for hands-on career opportunities to meet current and future needs.*

(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary **[shall]** *may consider—*

*(A) the degree to which the new curricula or education program meets the specific current or future needs of a segment of the transportation industry, States, or regions;*

*(B) providing for practical experience and on-the-job training;*

*(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;*

*(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;*

*(E) programs or curricula **[in nontraditional departments]** that train professionals for work in the transportation field, such as construction, materials, information technology, environmental science, urban planning, and industrial or emerging technology; and*

*(F) the commitment of industry or a State's department of transportation to the program.*

(3) *Reporting.—The Secretary shall establish minimum reporting requirements for grant recipients under this subsection, which may include, with respect to a program carried out with a grant under this subsection—*

*(A) the percentage or number of program participants that are employed during the second quarter after exiting the program;*

*(B) the percentage or number of program participants that are employed during the fourth quarter after exiting the program;*

*(C) the median earnings of program participants that are employed during the second quarter after exiting the program;*

*(D) the percentage or number of program participants that obtain a recognized postsecondary credential or a secondary school diploma (or a recognized equivalent) during participation in the program or by not later than 1 year after exiting the program; and*

*(E) the percentage or number of program participants that, during a program year—*

*(i) are in an education or training program that leads to a recognized postsecondary credential or employment; and*

*(ii) are achieving measurable skill gains toward such a credential or employment.*

[(3)] (4) LIMITATIONS.—The amount of a grant under this subsection shall not exceed \$300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee’s program costs.

\* \* \* \* \*

(g) FREIGHT CAPACITY BUILDING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

(A) \* \* \*

\* \* \* \* \*

(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or [make grants or to] *make grants to* and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

\* \* \* \* \*

(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

(1) IN GENERAL.—The Secretary shall make grants under this section to establish and maintain centers for surface transportation excellence.

\* \* \* \* \*

*(i) Use of Funds.—The Secretary may use funds made available to carry out this section to carry out activities related to workforce development and technical assistance and training if—*

*(1) the activities are authorized by another provision of this title; and*

*(2) the activities are for entities other than employees of the Secretary, such as States, units of local government, Federal land management agencies, and Tribal governments.*

\* \* \* \* \*

**§ 515. General authorities and requirements**

(a) SCOPE.—\* \* \*

\* \* \* \* \*

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out sections 512 through 518.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a State, local, or regional wildlife, land use, or resource management agency;

~~[(D)]~~ (E) a representative from a metropolitan planning organization;

~~[(E)]~~ (F) a private sector user of intelligent transportation system technologies;

~~[(F)]~~ (G) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

~~[(G)]~~ (H) an academic researcher who is a civil engineer;

~~[(H)]~~ (I) an academic researcher who is a social scientist with expertise in transportation issues;

(J) an academic researcher who is a biological or ecological scientist with expertise in transportation issues;

~~[(I)]~~ (K) a representative from a nonprofit group representing the intelligent transportation system industry;

~~[(J)]~~ (L) a representative from a public interest group concerned with safety;

~~[(K)]~~ (M) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; ~~and~~

(N) a representative from a public interest group concerned with the impact of the transportation system on terrestrial and aquatic species and the habitat of those species; and

~~[(L)]~~ (O) members with expertise in planning, safety, telecommunications, utilities, and operations.

\* \* \* \* \*

**§ 516. Research and development**

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) \* \* \*

\* \* \* \* \*

(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems , including animal detection systems to reduce the number of wildlife-vehicle collisions ; or

\* \* \* \* \*

**§ 519. Infrastructure development**

Funds made available to carry out this chapter for operational tests of intelligent transportation systems—



(1) \* \* \*

\* \* \* \* \*

§520. *Transportation Resilience and Adaptation Centers of Excellence*

(a) *Definition of Center of Excellence.*—In this section, the term ‘Center of Excellence’ means a Center of Excellence for Resilience and Adaptation designated under subsection (b).

(b) *Designation.*—The Secretary shall designate 10 regional Centers of Excellence for Resilience and Adaptation and 1 national Center of Excellence for Resilience and Adaptation, which shall serve as a coordinator for the regional Centers, to receive grants to advance research and development that improves the resilience of regions of the United States to natural disasters and extreme weather by promoting the resilience of surface transportation infrastructure and infrastructure dependent on surface transportation.

(c) *Eligibility.*—An entity eligible to be designated as a Center of Excellence is—

(1) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)); or

(2) a consortium of nonprofit organizations led by an institution of higher education.

(d) *Application.*—To be eligible to be designated as a Center of Excellence, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a proposal that includes a description of the activities to be carried out with a grant under this section.

(e) *Selection.*—

(1) *Regional centers of excellence.*—The Secretary shall designate 1 regional Center of Excellence in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled ‘Standard Federal Regions’ and dated April 1974 (circular A-105).

(2) *National center of excellence.*—The Secretary shall designate 1 national Center of Excellence to coordinate the activities of all 10 regional Centers of Excellence to minimize duplication and promote coordination and dissemination of research among the Centers.

(3) *Criteria.*—In selecting eligible entities to designate as a Center of Excellence, the Secretary shall consider—

(A) the past experience and performance of the eligible entity in carrying out activities described in subsection (g);

(B) the merits of the proposal of an eligible entity and the extent to which the proposal would—

(i) advance the state of practice in resilience planning and identify innovative resilience solutions for transportation assets and systems;

(ii) support activities carried out under the PROTECT program under section 176;

(iii) support and build on work being carried out by another Federal agency relating to resilience;

(iv) inform transportation decisionmaking at all levels of government;

(v) engage local, regional, Tribal, State, and national stakeholders, including, if applicable, stakeholders representing transportation, transit, urban, and land use planning, natural resources, environmental protection, hazard mitigation, and emergency management; and

(vi) engage community groups and other stakeholders that will be affected by transportation decisions, including underserved, economically disadvantaged, rural, and predominantly minority communities; and

(C) the local, regional, Tribal, State, and national impacts of the proposal of the eligible entity.

(f) *Grants.*—Subject to the availability of appropriations, the Secretary shall provide to each Center of Excellence a grant of not less than \$5,000,000 for each of fiscal years 2022 through 2031 to carry out the activities described in subsection (g).

(g) *Activities.*—In carrying out this section, the Secretary shall ensure that a Center of Excellence uses the funds from a grant under subsection (f) to promote resilient transportation infrastructure, including through—

(1) supporting climate vulnerability assessments informed by climate change science, including national climate assessments produced by the United States Global Change Research Program under section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936), relevant feasibility analyses of resilient transportation improvements, and transportation resilience planning;

(2) development of new design, operations, and maintenance standards for transportation infrastructure that can inform Federal and State decisionmaking;

(3) research and development of new materials and technologies that could be integrated into existing and new transportation infrastructure;

(4) development, refinement, and piloting of new and emerging resilience improvements and strategies, including natural infrastructure approaches and relocation;

(5) development of and investment in new approaches for facilitating meaningful engagement in transportation decisionmaking by local, Tribal, regional, or national stakeholders and communities;

(6) technical capacity building to facilitate the ability of local, regional, Tribal, State, and national stakeholders—

(A) to assess the vulnerability of transportation infrastructure assets and systems;

(B) to develop community response strategies;

(C) to meaningfully engage with community stakeholders; and

(D) to develop strategies and improvements for enhancing transportation infrastructure resilience under current conditions and a range of potential future conditions;

(7) workforce development and training;

(8) development and dissemination of data, tools, techniques, assessments, and information that informs Federal, State, Tribal, and local government decisionmaking, policies, planning, and investments;

(9) education and outreach regarding transportation infrastructure resilience; and

(10) technology transfer and commercialization.

(h) Federal Share.—The Federal share of the cost of an activity under this section, including the costs of establishing and operating a Center of Excellence, shall be 50 percent.

\* \* \* \* \*

## TITLE 23—HIGHWAYS

### CHAPTER 6—INFRASTRUCTURE FINANCE

\* \* \* \* \*

#### § 601. Generally applicable provisions

(a) DEFINITIONS.—The following definitions apply to sections 601 through 609:

(1) CONTINGENT COMMITMENT.—The term “contingent commitment” means a commitment to obligate an amount from future available budget authority that is—

(A) \* \* \*

\* \* \* \* \*

(10) MASTER CREDIT AGREEMENT.—The term “master credit agreement” means a conditional agreement to extend credit assistance for a program of related projects secured by a common security pledge covered under section 602(b)(2)(A) or for a single project covered under section 602(b)(2)(B) that does not provide for a current obligation of Federal funds, and that would—

(A) \* \* \*

\* \* \* \* \*

(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than **3 years** 5 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

\* \* \* \* \*

(12) PROJECT.—The term “project” means—

(A) \* \* \*

\* \* \* \* \*

**[(E) a project to improve or construct public infrastructure that is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(3)(G)(v) of title 49, and related infrastructure; and]**

*(E) a project to improve or construct public infrastructure—*

*(i) that—*

*(I) is located within walking distance of, and accessible to, a fixed guideway transit facility, pas-*

*senger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(3)(G)(v) of title 49, and related infrastructure; or*

*(II) is a project for economic development, including commercial and residential development, and related infrastructure and activities—*

*(aa) that incorporates private investment;*

*(bb) that is physically or functionally related to a passenger rail station or multimodal station that includes rail service;*

*(cc) for which the project sponsor has a high probability of commencing the contracting process for construction by not later than 90 days after the date on which credit assistance under the TIFIA program is provided for the project; and*

*(dd) that has a high probability of reducing the need for financial assistance under any other Federal program for the relevant passenger rail station or service by increasing ridership, tenant lease payments, or other activities that generate revenue exceeding costs; and*

*(ii) for which, by not later than September 30, 2026, the Secretary has—*

*(I) received a letter of interest; and*

*(II) determined that the project is eligible for assistance;*

*(F) the capitalization of a rural projects fund[.]; and*

*(G) an eligible airport-related project (as defined in section 40117(a) of title 49) for which, not later than September 30, 2025, the Secretary has—*

*(i) received a letter of interest; and*

*(ii) determined that the project is eligible for assistance; and*

*(H) a project for the acquisition of plant and wildlife habitat pursuant to a conservation plan that—*

*(i) has been approved by the Secretary of the Interior pursuant to section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539); and*

*(ii) in the judgment of the Secretary, would mitigate the environmental impacts of transportation infrastructure projects otherwise eligible for assistance under this title.*

\* \* \* \* \*

**§ 602. Determination of eligibility and project selection**

(a) ELIGIBILITY.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(2) CREDITWORTHINESS.—

(A) IN GENERAL.—To be eligible for assistance under the TIFIA program, a project shall satisfy applicable credit-

worthiness standards, which, at a minimum, shall include—

(i) \* \* \*

\* \* \* \* \*

(iv) **[a rating]** *an investment-grade rating* from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than **[\$75,000,000]** *150,000,000*, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is **[the senior debt]** *senior debt*, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the **[credit instrument is for an amount less than \$75,000,000]** *total amount of other senior debt and the Federal credit instrument is less than \$150,000,000*, in which case 1 rating agency opinion shall be sufficient.

\* \* \* \* \*

(11) *Public-private partnerships.—In the case of a project to be carried out through a public-private partnership, the public partner shall have—*

- (A) *conducted a value for money analysis or similar comparative analysis; and*
- (B) *determined the appropriateness of the public-private partnership agreement.*

\* \* \* \* \*

(c) FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—In addition to the requirements of this title for highway projects, the requirements of chapter 53 of title 49 for transit projects, **[and the requirements of section 5333(a) of title 49 for rail projects,]** *the requirements of section 5333(a) of title 49 for rail projects, and the requirements of sections 47112(b) and 50101 of title 49 for airport-related projects*, the following provisions of law shall apply to funds made available under the TIFIA program and projects assisted with those funds:

\* \* \* \* \*

(d) APPLICATION PROCESSING PROCEDURES.—

(1) *Processing timelines.—Except in the case of an application described in subsection (a)(8) and to the maximum extent practicable, the Secretary shall provide an applicant with a specific estimate of the timeline for the approval or disapproval of the application of the applicant, which, to the maximum extent practicable, the Secretary shall endeavor to complete by not later than 150 days after the date on which the applicant submits a letter of interest to the Secretary.*

**[(1)]** (2) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this

section, the Secretary shall provide to the applicant a written notice to inform the applicant whether—

- (A) the application is complete; or
- (B) additional information or materials are needed to complete the application.

[(2)] (3) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under [paragraph (1)] *paragraph (2)*, the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

\* \* \* \* \*

(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under the TIFIA program may be used to finance up to 100 percent of the cost of development phase activities as described in [3section 601(a)(1)(A)] *section 601(a)(2)(A)*.

\* \* \* \* \*

**§ 603. Secured loans**

(a) IN GENERAL.—

(1) AGREEMENTS.— \* \* \*

\* \* \* \* \*

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(5) MATURITY DATE.—

(A) IN GENERAL.—Except as provided in [subparagraph (B)] *subparagraphs (B) and (C)*, the final maturity date of the secured loan shall be the lesser of—

- (i) 35 years after the date of substantial completion of the project; and
- (ii) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

(C) *Long lived assets.*—*In the case of a capital asset with an estimated life of more than 50 years, the final maturity date of the secured loan shall be the lesser of—*

- (i) *75 years after the date of substantial completion of the project; or*
- (ii) *75 percent of the estimated useful life of the capital asset.*

\* \* \* \* \*

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A \* \* \*

\* \* \* \* \*)

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—[Any excess](i) *In general.—Except as provided in clause (ii), any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust*

agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

*(ii) Certain applicants.—In the case of a secured loan or other secured Federal credit instrument provided after the date of enactment of the Surface Transportation Reauthorization Act of 2021, if the obligor is a governmental entity, agency, or instrumentality, the obligor shall not be required to prepay the secured loan or other secured Federal credit instrument with any excess revenues described in clause (i) if the obligor enters into an agreement to use those excess revenues only for purposes authorized under this title or title 49.*

\* \* \* \* \*

(f) STREAMLINED APPLICATION PROCESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the FAST Act, the Secretary shall make available an expedited application process or processes available at the request of entities seeking secured loans under the TIFIA program that use a set or sets of conventional terms established pursuant to this section.

(2) TERMS.—\* \* \*

\* \* \* \* \*

(3) Additional terms for expedited decisions.—

*(A) In general.—Not later than 120 days after the date of enactment of this paragraph, the Secretary shall implement an expedited decision timeline for public agency borrowers seeking secured loans that meet—*

*(i) the terms under paragraph (2); and*

*(ii) the additional criteria described in subparagraph (B).*

*(B) Additional criteria.—The additional criteria referred to in subparagraph (A)(ii) are the following:*

*(i) The secured loan is made on terms and conditions that substantially conform to the conventional terms and conditions established by the National Surface Transportation Innovative Finance Bureau.*

*(ii) The secured loan is rated in the A category or higher.*

*(iii) The TIFIA program share of eligible project costs is 33 percent or less.*

*(iv) The applicant demonstrates a reasonable expectation that the contracting process for the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.*

*(v) The project has received a categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(C) Written notice.—The Secretary shall provide to an applicant seeking a secured loan under the expedited decision process under this paragraph a written notice informing the applicant whether the Secretary has approved or dis-*

*approved the application by not later than 180 days after the date on which the Secretary submits to the applicant a letter indicating that the National Surface Transportation Innovative Finance Bureau has commenced the credit-worthiness review of the project.*

\* \* \* \* \*

### § 605. Program administration

(a) REQUIREMENT.—\* \* \*

\* \* \* \* \*

(f) ASSISTANCE TO SMALL PROJECTS.—

(1) RESERVATION OF FUNDS.—Of the funds made available to carry out the TIFIA program for each fiscal year, and after the set aside under **[section 608(a)(5)]** *section 608(a)(6)*, not less than \$2,000,000 shall be made available for the Secretary to use in lieu of fees collected under subsection (b) for projects under the TIFIA program having eligible project costs that are reasonably anticipated not to equal or exceed \$75,000,000.

\* \* \* \* \*

### § 608. Funding

(a) FUNDING.—

(1) SPENDING AND BORROWING AUTHORITY.—\* \* \*

\* \* \* \* \*

(3) RURAL SET-ASIDE.—

(A) IN GENERAL.—**K**\* \* \*

\* \* \* \* \*

(4) *Limitation for certain projects.*—

(A) *Transit-oriented development projects.*—*For each fiscal year, the Secretary may use to carry out projects described in section 601(a)(12)(E) not more than 15 percent of the amounts made available to carry out the TIFIA program for that fiscal year.*

(B) AIRPORT-RELATED PROJECTS.—*The Secretary may use to carry out projects described in section 601(a)(12)(G)—*

*(i) for each fiscal year, not more than 15 percent of the amounts made available to carry out the TIFIA program under the Surface Transportation Reauthorization Act of 2021 for that fiscal year; and*

*(ii) for the period of fiscal years 2022 through 2026, not more than 15 percent of the unobligated carryover balances (as of October 1, 2021).;*

**[(4)]** (5) AVAILABILITY.—Amounts made available to carry out the TIFIA program shall remain available until expended.

**[(5)]** (6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out the TIFIA program, the Secretary may use not more than \$6,875,000 for fiscal year 2016, \$7,081,000 for fiscal year 2017, \$7,559,000 for fiscal year 2018, \$8,195,000 for fiscal year 2019, and \$8,441,000 for fiscal year 2020 for the administration of the TIFIA program. **]**

(6) *Administrative costs.*—*Of the amounts made available to carry out the TIFIA program, the Secretary may use not more*



*than \$10,000,000 for each of fiscal years 2022 through 2026 for the administration of the TIFIA program.*

**§ 609. Reports to Congress**

(a) IN GENERAL.—\* \* \*

\* \* \* \* \*

(b) APPLICATION PROCESS REPORT.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(c) *Status Reports.*—

(1) *In general.*—*The Secretary shall publish on the website for the TIFIA program—*

*(A) on a monthly basis, a current status report on all submitted letters of interest and applications received for assistance under the TIFIA program; and*

*(B) on a quarterly basis, a current status report on all approved applications for assistance under the TIFIA program.*

(2) *Inclusions.*—*Each monthly and quarterly status report under paragraph (1) shall include, at a minimum, with respect to each project included in the status report—*

*(A) the name of the party submitting the letter of interest or application;*

*(B) the name of the project;*

*(C) the date on which the letter of interest or application was received;*

*(D) the estimated project eligible costs;*

*(E) the type of credit assistance sought; and*

*(F) the anticipated fiscal year and quarter for closing of the credit assistance.*

**§ 610. State infrastructure bank program**

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

(1) CAPITAL PROJECT.—

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

(A) 10 percent of the funds apportioned to the State for each of **fiscal years 2016 through 2020** *fiscal years 2022 through 2026*; under each of paragraphs (1), (2), and (5) of section 104(b); and

\* \* \* \* \*

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of **fiscal years**

2016 through 2020] *fiscal years 2022 through 2026* for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of [fiscal years 2016 through 2020] *fiscal years 2022 through 2026* for capital projects under such subtitle.

\* \* \* \* \*

(k) PROGRAM ADMINISTRATION.—For each of fiscal years [2016 through 2020] *fiscal years 2022 through 2026*, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

\* \* \* \* \*

**TITLE 40—PUBLIC BUILDINGS,  
PROPERTY, AND WORKS**

**SUBTITLE IV—APPALACHIAN REGIONAL  
DEVELOPMENT**

**CHAPTER 141—GENERAL PROVISIONS**

Sec.  
14101. Findings and purposes.  
14102. Definitions.

**§ 14101. Findings and purposes**

(a) 1965 FINDINGS AND PURPOSE.—  
(1) FINDINGS.— \* \* \*

\* \* \* \* \*

**§ 14102. Definitions**

(a) DEFINITIONS.—In this subtitle—  
(1) APPALACHIAN REGION.—The term “Appalachian region” means that area of the eastern United States consisting of the following counties (including any political subdivision located within the area):

(A) \* \* \*

\* \* \* \* \*

(G) In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, *Catawba* Cherokee, Clay, *Cleveland* Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey.

\* \* \* \* \*

(J) In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, **and Spartanburg** *Spartanburg, and Union.*

\* \* \* \* \*

(M) All the counties of West Virginia, *of which the counties of Brooke, Hancock, Marshall, and Ohio shall be considered to be located in the North Central subregion.*

\* \* \* \* \*

**CHAPTER 143—APPALACHIAN REGIONAL COMMISSION**

SUBCHAPTER SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

Sec.

14301. Establishment, membership, and employees.

14301. Establishment, membership, and employees.

\* \* \* \* \*

14323. *Congressional notification.*

\* \* \* \* \*

**§ 14301. Establishment, membership, and employees**

(a) ESTABLISHMENT.— \* \* \*

\* \* \* \* \*

**§ 14303. Functions**

(a) IN GENERAL.—In carrying out the purposes of this subtitle, the Appalachian Regional Commission shall—

(1) \* \* \*

\* \* \* \* \*

(9) encourage the use of eco-industrial development technologies and approaches; **and**

(10) seek to coordinate the economic development activities of, and the use of economic development resources by, federal agencies in the region~~].~~ ; *and*

(11) *support broadband access in the Appalachian region.*

\* \* \* \* \*

**§ 14322. Approval of development plans, strategy statements, and projects**

(a) ANNUAL REVIEW AND APPROVAL REQUIRED.— \* \* \*

\* \* \* \* \*

*§ 14323. Congressional notification*

(a) IN GENERAL.—*In the case of a project described in subsection (b), the Appalachian Regional Commission shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the award of a grant or other financial assistance not less than 3 full business days before awarding the grant or other financial assistance.*

(b) *Projects Described.*—*A project referred to in subsection (a) is a project that the Appalachian Regional Commission has selected to*

*receive a grant or other financial assistance under this subtitle in an amount not less than \$50,000.*

\* \* \* \* \*

**CHAPTER 145—SPECIAL APPALACHIAN PROGRAMS**

SUBCHAPTER SUBCHAPTER I—PROGRAMS

Sec.

14501. Appalachian development highway system.

\* \* \* \* \*

14511. *Appalachian regional energy hub initiative.*

\* \* \* \* \*

SUBCHAPTER I—PROGRAMS

**§ 14501. Appalachian development highway system**

(a) PURPOSE.— \* \* \*

\* \* \* \* \*

**§ 14509. High-speed broadband deployment initiative**

[(a) IN GENERAL.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Appalachian region for projects and activities—

[(1) to increase affordable access to broadband networks throughout the Appalachian region;

[(2) to conduct research, analysis, and training to increase broadband adoption efforts in the Appalachian region;

[(3) to provide technology assets, including computers, smartboards, and video projectors to educational systems throughout the Appalachian region;

[(4) to increase distance learning opportunities throughout the Appalachian region;

[(5) to increase the use of telehealth technologies in the Appalachian region; and

[(6) to promote e-commerce applications in the Appalachian region.]

(a) IN GENERAL.—*The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Appalachian region for projects and activities to increase affordable access to broadband networks throughout the Appalachian region.*

(b) *Eligible Projects and Activities.*—*A project or activity eligible to be carried out under this section is a project or activity—*

*(1) to conduct research, analysis, and training to increase broadband adoption efforts in the Appalachian region; or*

*(2) for the construction and deployment of broadband service-related infrastructure in the Appalachian region.*

[(b)] (c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section—

(1) not more than 50 percent may be provided from amounts appropriated to carry out this section; and

(2) notwithstanding paragraph (1)—

(A) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, not more than 80 percent may be provided from amounts appropriated to carry out this section; and  
 (B) in the case of a project to be carried out in a county for which an at-risk designation is in effect under section 14526, not more than 70 percent may be provided from amounts appropriated to carry out this section.

[(c)] (d) SOURCES OF ASSISTANCE.—Subject to [subsection (b)] subsection (c), a grant provided under this section may be provided from amounts made available to carry out this section in combination with amounts made available—

- (1) under any other Federal program; or
- (2) from any other source.

[(d)] (e) FEDERAL SHARE.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Appalachian Regional Commission determines to be appropriate.

(f) *Request for Data.*—*Before making a grant for a project or activity described in subsection (b)(2), the Appalachian Regional Commission shall request from the Federal Communications Commission, the National Telecommunications and Information Administration, the Economic Development Administration, and the Department of Agriculture data on—*

- (1) *the level and extent of broadband service that exists in the area proposed to be served by the broadband service-related infrastructure; and*
- (2) *the level and extent of broadband service that will be deployed in the area proposed to be served by the broadband service-related infrastructure pursuant to another Federal program.*

(g) *Requirement.*—*For each fiscal year, not less than 65 percent of the amounts made available to carry out this section shall be used for grants for projects and activities described in subsection (b)(2).*

\* \* \* \* \*

**§ 14510. Drug abuse mitigation initiative**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

**§ 14511. Appalachian regional energy hub initiative**

(a) *In General.*—*The Appalachian Regional Commission may provide technical assistance to, make grants to, enter into contracts with, or otherwise provide amounts to individuals or entities in the Appalachian region for projects and activities—*

- (1) *to conduct research and analysis regarding the economic impact of an ethane storage hub in the Appalachian region that supports a more-effective energy market performance due to the scale of the project, such as a project with the capacity to store and distribute more than 100,000 barrels per day of hydrocarbon feedstock with a minimum gross heating value of 1,700 Btu per standard cubic foot;*

- (2) *with the potential to significantly contribute to the economic resilience of the area in which the project is located; and*
- (3) *that will help establish a regional energy hub in the Appalachian region for natural gas and natural gas liquids, including hydrogen produced from the steam methane reforming of natural gas feedstocks.*

(b) *Limitation on Available Amounts.—Of the cost of any project or activity eligible for a grant under this section—*

(1) *except as provided in paragraphs (2) and (3), not more than 50 percent may be provided from amounts made available to carry out this section;*

(2) *in the case of a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526, not more than 80 percent may be provided from amounts made available to carry out this section; and*

(3) *in the case of a project or activity to be carried out in a county for which an at-risk county designation is in effect under section 14526, not more than 70 percent may be provided from amounts made available to carry out this section.*

(c) *Sources of Assistance.—Subject to subsection (b), a grant provided under this section may be provided from amounts made available to carry out this section, in combination with amounts made available—*

(1) *under any other Federal program; or*

(2) *from any other source.*

(d) *Federal Share.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Appalachian Regional Commission determines to be appropriate.*

\* \* \* \* \*

**CHAPTER 147—MISCELLANEOUS**

**§ 14701.\* \* \***

\* \* \* \* \*

**§ 14703. Authorization of appropriations**

(a) **IN GENERAL.**—In addition to amounts made available under section 14501, there is authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

(1)\* \* \*

\* \* \* \* \*

(4) \$108,000,000 for fiscal year 2011; **[and]**

(5) \$110,000,000 for each of fiscal years 2012 through 2021**[.]**; *and*

(6) \$200,000,000 for each of fiscal years 2022 through 2026.

\* \* \* \* \*

(c) **HIGH-SPEED BROADBAND DEPLOYMENT INITIATIVE.**—Of the amounts made available under subsection (a), **[\$10,000,000 may be used to carry out section 14509 for each of fiscal years 2016 through 2021]** \$20,000,000 may be used to carry out section 14509 for each of fiscal years 2022 through 2026.

(d) *Appalachian Regional Energy Hub Initiative.*—Of the amounts made available under subsection (a), \$5,000,000 shall be used to carry out section 14511 for each of fiscal years 2022 through 2026.

[(d)] (e) AVAILABILITY.—Amounts made available under subsection (a) remain available until expended.

[(e)] (f) ALLOCATION OF FUNDS.—Funds approved by the Appalachian Regional Commission for a project in a State in the Appalachian region pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts appropriated to carry out this subtitle.

**§ 14704. Termination**

This subtitle, except sections 14102(a)(1) and (b) and 14501, ceases to be in effect on October 1, [2021] 2026.

\* \* \* \* \*

**TITLE 49—TRANSPORTATION**

**SUBTITLE IX—MULTIMODAL FREIGHT  
TRANSPORTATION**

\* \* \* \* \*

**CHAPTER 701—MULTIMODAL FREIGHT POLICY**

**§ 70102. National freight strategic plan**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(b) CONTENTS.—The national freight strategic plan shall include—

(1) \* \* \*

\* \* \* \* \*

(10) an identification of best practices for improving the performance of the National Multimodal Freight Network, including critical commerce corridors and rural and urban access to critical freight corridors; [and]

(11) an identification of best practices to mitigate the impacts of freight movement on communities[.] ; and

(12) possible strategies to increase the resilience of the freight system, including the ability to anticipate, prepare for, or adapt to conditions, or withstand, respond to, or recover rapidly from disruptions, including extreme weather and natural disasters;

(13) strategies to promote United States economic growth and international competitiveness; and

(14) strategies to reduce local air pollution from freight movement, stormwater runoff, and wildlife habitat loss resulting from freight facilities, freight vehicles, or freight activity.

\* \* \* \* \*

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has **【6 Assistant】** 7 Assistant Secretaries and a General Counsel, including—

(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, an Assistant Secretary for Research and Technology, and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President; **【and】**

*(D) an Assistant Secretary for Tribal Government Affairs, who shall be appointed by the President; and*

**【(D)】** *(E) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.*

\* \* \* \* \*

**【(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—**

**【(1) ESTABLISHMENT.—**In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.**】**

*(f) Office of Tribal Government Affairs.—*

*(1) Establishment.—There is established in the Department an Office of Tribal Government Affairs, under the Assistant Secretary for Tribal Government Affairs—*

*(A) to oversee the tribal self-governance program under section 207 of title 23;*

*(B) to plan, coordinate, and implement policies and programs serving Indian Tribes and Tribal organizations;*

*(C) to coordinate Tribal transportation programs and activities in all offices and administrations of the Department; and*

*(D) to be a participant in any negotiated rulemakings relating to, or having an impact on, projects, programs, or funding associated with the Tribal transportation program under section 202 of title 23.*

\* \* \* \* \*



**CHAPTER 702—MULTIMODAL FREIGHT  
TRANSPORTATION PLANNING AND INFORMATION**

**§ 70201. State freight advisory committees**

(a) IN GENERAL.—The Secretary of Transportation shall encourage each State to establish a freight advisory committee consisting of a [representative cross-section of public and private sector freight stakeholders, including representatives of ports, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, the transportation department of the State, and local governments.] *“representatives of—*

- (1) *ports, if applicable;*
- (2) *freight railroads, if applicable;*
- (3) *shippers;*
- (4) *carriers;*
- (5) *freight-related associations;*
- (6) *third-party logistics providers;*
- (7) *the freight industry workforce;*
- (8) *the transportation department of the State;*
- (9) *metropolitan planning organizations;*
- (10) *local governments;*
- (11) *the environmental protection department of the State, if applicable;*
- (12) *the air resources board of the State, if applicable; and*
- (13) *economic development agencies of the State.*

(b) *Qualifications.—Each member of a freight advisory committee established under subsection (a) shall have qualifications sufficient to serve on a freight advisory committee, including, as applicable—*

- (1) *general business and financial experience;*
  - (2) *experience or qualifications in the areas of freight transportation and logistics;*
  - (3) *experience in transportation planning;*
  - (4) *experience representing employees of the freight industry;*
- or*
- (5) *experience representing a State, local government, or metropolitan planning organization.*

**[(b)] (c) ROLE OF COMMITTEE.—**A freight advisory committee of a State described in subsection (a) shall—

- (1) *advise the State on freight-related priorities, issues, projects, and funding needs;*
- (2) *serve as a forum for discussion for State transportation decisions affecting freight mobility;*
- (3) *communicate and coordinate regional priorities with other organizations;*
- (4) *promote the sharing of information between the private and public sectors on freight issues; and*
- (5) *participate in the development of the freight plan of the State described in section [70202] 70202, including by providing advice regarding the development of the freight investment plan.*

\* \* \* \* \*

§ 70202. State freight plans

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(b) PLAN CONTENTS.—A State freight plan described in subsection (a) shall include, at a minimum—

(1) \* \* \*

\* \* \* \* \*

(9) a freight investment plan that, subject to subsection (c)(2), includes a list of priority projects and describes how funds made available to carry out section 167 of title 23 would be invested and matched; **[and]**

(10) *the most recent commercial motor vehicle parking facilities assessment conducted under subsection (f);*

(11) *strategies and goals to decrease—*

(A) *the severity of impacts of extreme weather and natural disasters on freight mobility;*

(B) *the impacts of freight movement on local air pollution;*

(C) *the impacts of freight movement on flooding and stormwater runoff; and*

(D) *the impacts of freight movement on wildlife habitat loss; and*

**[(10)]** (12) *consultation with the State freight advisory committee, if applicable.*

\* \* \* \* \*

(d) PLANNING PERIOD.—A State freight plan described in subsection (a) shall address a 5-year forecast period.

(e) *Priority.—Each State freight plan under this section shall include a requirement that the State, in carrying out activities under the State freight plan—*

(1) *enhance reliability or redundancy of freight transportation; or*

(2) *incorporate the ability to rapidly restore access and reliability of freight transportation.*

(f) *Commercial Motor Vehicle Parking Facilities Assessments.—As part of the development or updating, as applicable, of the State freight plan under this section, each State that receives funding under section 167 of title 23, in consultation with relevant State motor carrier safety personnel, shall conduct an assessment of—*

(1) *the capability of the State, together with the private sector in the State, to provide adequate parking facilities and rest facilities for commercial motor vehicles engaged in interstate transportation;*

(2) *the volume of commercial motor vehicle traffic in the State; and*

(3) *whether there are any areas within the State that have a shortage of adequate commercial motor vehicle parking facilities, including an analysis (economic or otherwise, as the State determines to be appropriate) of the underlying causes of any such shortages.*

(g) *Approval.—*

(1) *In general.*—The Secretary of Transportation shall approve a State freight plan described in subsection (a) if the plan achieves compliance with the requirements of this section.

(2) *Savings provision.*—Nothing in this subsection establishes new procedural requirements for the approval of a State freight plan described in subsection (a).

**[(e)] (h) UPDATES.—**

(1) **IN GENERAL.**—A State shall update a State freight plan described in subsection (a) not less frequently than once every 5 years.

(2) **FREIGHT INVESTMENT PLAN.**—A State may update a freight investment plan described in subsection (b)(9) more frequently than is required under paragraph (1

\* \* \* \* \*

**(SAFETEA-LU) Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users**

\* \* \* \* \*

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

(a) **[23 U.S.C. 101 note] SHORT TITLE.**—This Act may be cited as the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” or “SAFETEA-LU”.

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

\* \* \* \* \*

Sec. 1. Short title; table of contents.  
Sec. 2. General definitions.

**TITLE I—FEDERAL-AID HIGHWAYS**

**Subtitle A—Authorization of Programs**

Sec. 1101. Authorization of appropriations.

\* \* \* \* \*

**Subtitle D—Highway Safety**

Sec. 1404. **[Safe routes to school program.]**

\* \* \* \* \*

**MAP-21**

\* \* \* \* \*

**SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) **[23 U.S.C. 101 note] SHORT TITLE.**—

\* \* \* \* \*

DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY  
SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

**SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS;  
TABLE OF CONTENTS.**

(a) [23 U.S.C. 101 note] **SHORT TITLE.**—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP-21”.

\* \* \* \* \*

**SEC. 1123. [23 U.S.C. 202 note] TRIBAL HIGH PRIORITY PROJECTS PROGRAM.**

(a) **DEFINITIONS.**— \* \* \*

\* \* \* \* \*

**[(h) AUTHORIZATION OF APPROPRIATIONS.—**

(1) **IN GENERAL.**—There is authorized to be appropriated \$30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2013 through 2015 and \$5,327,869 out of the general fund of the Treasury to carry out the program for the period beginning on October 1, 2015, and ending on December 4, 2015.]

(h) *Funding.*—

(1) *Set-aside.*—For each of fiscal years 2022 through 2026, of the amounts made available to carry out the tribal transportation program under section 202 of title 23, United States Code, for that fiscal year, the Secretary shall use \$9,000,000 to carry out the program.

(2) *Authorization of appropriations.*—In addition to amounts made available under paragraph (1), there is authorized to be appropriated \$30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2022 through 2026.

**[(2)] (3) ADMINISTRATION.**—The funds made available under [paragraph (1)] paragraphs (1) and (2) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

(B) the Federal share of the cost of a project shall be 100 percent.

\* \* \* \* \*

Subtitle C—Acceleration of Project Delivery

**SEC. 1317. [23 U.S.C. 109 note] CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall—\*

(1) designate as an action categorically excluded from the requirements relating to environmental assessments or environ-

mental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations, any project—

- (A) that receives less than ~~[\$5,000,000]~~ \$6,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor) of Federal funds; or
  - (B) with a total estimated cost of not more than ~~[\$30,000,000]~~ \$35,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost; and
- (2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1).

\* \* \* \* \*

Subtitle E—Miscellaneous

**SEC. 1519. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.**

(a) CONSOLIDATION OF PROGRAMS.—For each of ~~[fiscal years 2016 through 2020]~~ *fiscal years 2022 through 2026*, before making an apportionment under section 104(b)(3) of title 23, United States Code, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 of such title for the fiscal year, \$3,500,000—

\* \* \* \* \*

**Fixing America’s Surface Transportation Act**

\* \* \* \* \*

**SECTION 1. [23 U.S.C. 101 note] SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Fixing America’s Surface Transportation Act” or the “FAST Act”.

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

Sec. 1. Short title; table of contents.

DIVISION A—SURFACE TRANSPORTATION

Sec. 1001. Definitions.

\* \* \* \* \*

TITLE VI—INNOVATION

Sec. 6001. Short title.

\* \* \* \* \*

Sec. 6020. **[Surface transportation system funding alternatives.]**

\* \* \* \* \*

## TITLE I—FEDERAL-AID HIGHWAYS

## Subtitle A—Authorizations and Programs

**SEC. 1123. [23 U.S.C. 201 note] NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM.**

(a) PURPOSE.— \* \* \*

\* \* \* \* \*

(c) ELIGIBLE PROJECTS.—An eligible project under the program shall be a single continuous project—

(1) \* \* \*

\* \* \* \* \*

(3) having an estimated cost, based on the results of preliminary engineering, equal to or exceeding **[\$25,000,000, with priority consideration given to projects with an estimated cost equal to or exceeding \$50,000,000.] \$12,500,000.**

\* \* \* \* \*

**[(g) FEDERAL SHARE.—****(1) IN GENERAL.—The Federal]****(g) Cost Share.—****(1) Federal share.—***(A) In general.—Except as provided in subparagraph (B), the Federal; share of the cost of a project shall be up to 90 percent.**(B) Tribal projects.—In the case of a project on a tribal transportation facility (as defined in section 101(a) of title 23, United States Code), the Federal share of the cost of the project shall be 100 percent.***(2) NON-FEDERAL SHARE.—**Notwithstanding any other provision of law, any Federal funds **[other than those made available under title 23 or title 49, United States Code,]** may be used to pay the non-Federal share of the cost of a project carried out under this section.**[(h) AUTHORIZATION OF APPROPRIATIONS.—**There is authorized to be appropriated to carry out this section \$100,000,000 for each of fiscal years 2016 through 2020. Such sums shall remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.**]****(h) Use of Funds.—****(1) In general.—***For each fiscal year, of the amounts made available to carry out this section—**(A) 50 percent shall be used for eligible projects on Federal lands transportation facilities and Federal lands access transportation facilities (as those terms are defined in section 101(a) of title 23, United States Code); and**(B) 50 percent shall be used for eligible projects on tribal transportation facilities (as defined in section 101(a) of title 23, United States Code).***(2) Requirement.—***Not less than 1 eligible project carried out using the amount described in paragraph (1)(A) shall be in a unit of the National Park System with not less than 3,000,000 annual visitors.*

(3) *Availability.*—Amounts made available to carry out this section shall remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

\* \* \* \* \*

Subtitle D—Miscellaneous

**SEC. 1420. [23 U.S.C. 101 note] FLEXIBILITY FOR PROJECTS.**

(a) **AUTHORITY.**—With respect to projects eligible for funding under title 23, United States Code, subject to subsection (b) [and on request by a State, the Secretary may—

- (1) exercise all existing flexibilities under and exceptions to—
  - (A) the requirements of title 23, United States Code; and
  - (B) other requirements administered by the Secretary, in whole or part; and

(2) otherwise provide additional flexibility or expedited processing with respect to the requirements described in paragraph (1).] , on request by a State, and if in the public interest (as determined by the Secretary), the Secretary shall exercise all existing flexibilities under—

- (1) the requirements of title 23, United States Code; and
- (2) other requirements administered by the Secretary, in whole or in part.

(b) **MAINTAINING PROTECTIONS.**—Nothing in this section—

- (1) waives the requirements of section 113 or 138 of title 23, United States Code;
- (2) supersedes, amends, or modifies—
  - (A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law (including regulations); or
  - (B) any requirement of title 23 or title 49, United States Code; or
- (3) affects the responsibility of any Federal officer to comply with or enforce any law or requirement described in this subsection.

\* \* \* \* \*

**SEC. 6028. [23 U.S.C. 150 note] PERFORMANCE MANAGEMENT DATA SUPPORT PROGRAM.**

(a) **PERFORMANCE MANAGEMENT DATA SUPPORT.**— \* \* \*

\* \* \* \* \*

(c) **FUNDING.**—From amounts authorized to carry out the Highway Research and Development Program, the Administrator of the Federal Highway Administration may use up to \$10,000,000 for each of [fiscal years 2016 through 2020] *fiscal years 2022 through 2026* to carry out this section.

\* \* \* \* \*

**DANALI COMMISSION ACT OF 1998**

DIVISION A, SECTION 101, SECTION 329, TITLE XI,

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a) \* \* \*

\* \* \* \* \*

**SEC. 311. [42 U.S.C. 3121 note] TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

\* \* \* \* \*

(c) TREATMENT.—Any funds transferred to the Commission under this subsection—

- (1) shall remain available until expended; [and]
- (2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Co-chairperson[.]; and
- (3) notwithstanding any other provision of law, shall—
  - (A) be treated as if directly appropriated to the Commission and subject to applicable provisions of this Act; and
  - (B) not be subject to any requirements that applied to the funds before the transfer, including a requirement in an appropriations Act or a requirement or regulation of the Federal agency from which the funds are transferred.

\* \* \* \* \*

**INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991**

\* \* \* \* \*

**SECTION 1. [49 U.S.C. 101 note] SHORT TITLE.**

This Act may be cited as the “Intermodal Surface Transportation Efficiency Act of 1991”.

\* \* \* \* \*

**SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.**

(a) FINDINGS.— \* \* \*

\* \* \* \* \*

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) \* \* \*

\* \* \* \* \*



(91) The Wendell H. Ford (Western Kentucky) Parkway from the interchange with the William H. Natcher Parkway in Ohio County, Kentucky, west to the interchange of the Western Kentucky Parkway with the Edward T. Breathitt (Pennyrile) Parkway.

(92) *United States Route 421 from the interchange with Interstate Route 85 in Greensboro, North Carolina, to the interchange with Interstate Route 95 in Dunn, North Carolina.*

(93) *The South Mississippi Corridor from the Louisiana and Mississippi border near Natchez, Mississippi, to Gulfport, Mississippi, shall generally follow—*

(A) *United States Route 84 from the Louisiana border at the Mississippi River passing in the vicinity of Natchez, Brookhaven, Monticello, Prentiss, and Collins, Mississippi, to the logical terminus with Interstate Route 59 in the vicinity of Laurel, Mississippi, and continuing on Interstate Route 59 south to the vicinity of Hattiesburg, Mississippi; and*

(B) *United States Route 49 from the vicinity of Hattiesburg, Mississippi, south to Interstate Route 10 in the vicinity of Gulfport, Mississippi, following Mississippi Route 601 south and terminating near the Mississippi State Port at Gulfport.*

(94) *The Kosciusko to Gulf Coast corridor commencing at the logical terminus of Interstate Route 55 near Vaiden, Mississippi, running south and passing east of the vicinity of the Jackson Urbanized Area, connecting to United States Route 49 north of Hattiesburg, Mississippi, and generally following United States Route 49 to a logical connection with Interstate Route 10 in the vicinity of Gulfport, Mississippi.*

(95) *The Interstate Route 22 spur from the vicinity of Tupelo, Mississippi, running south generally along United States Route 45 to the vicinity of Shannon, Mississippi.*

(96) *The route that generally follows United States Route 412 from its intersection with Interstate Route 35 in Noble County, Oklahoma, passing through Tulsa, Oklahoma, to its intersection with Interstate Route 49 in Springdale, Arkansas.*

(97) *The Louie B. Nunn Cumberland Expressway from the interchange with Interstate Route 65 in Barren County, Kentucky, east to the interchange with United States Highway 27 in Somerset, Kentucky.*

(98) *The route that generally follows State Route 7 from Grenada, Mississippi, to Holly Springs, Mississippi, passing in the vicinity of Coffeeville, Water Valley, Oxford, and Abbeville, Mississippi, to its logical connection with Interstate Route 22 in the vicinity of Holly Springs, Mississippi.*

\* \* \* \* \*

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.— \* \* \*

\* \* \* \* \*

(5) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(A) IN GENERAL.—The portions of the routes referred to in subsection (c)(1), subsection (c)(3) (relating solely to the

Kentucky Corridor), clauses (i), (ii), and (except with respect to Georgetown County) (iii) of subsection (c)(5)(B), subsection (c)(9), subsection (c)(13), subsection (c)(18), subsection (c)(20), subparagraphs (A) and (B)(i) of subsection (c)(26), subsection (c)(36), subsection (c)(37), subsection (c)(40), subsection (c)(42), subsection (c)(45), subsection (c)(54), subsection (c)(57), subsection (c)(68)(B), subsection (c)(81), subsection (c)(82), subsection (c)(83), subsection (c)(89), subsection (c)(90), [and subsection (c)(91)] *subsection (c)(91), subsection (c)(92), subsection (c)(93)(A), subsection (c)(94), subsection (c)(95), subsection (c)(96), and subsection (c)(97)*. that are not a part of the Interstate System are designated as future parts of the Interstate System. Any segment of such routes shall become a part of the Interstate System at such time as the Secretary determines that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP-21.

\* \* \* \* \*

(C) ROUTES.—

(i) DESIGNATION.—The portion of the route referred to in subsection (c)(9) is designated as Interstate Route I-99. The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I-69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I-69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(D)(i) shall be designated as Interstate Route I-69 East, and the segment identified in subsection (c)(18)(D)(ii) shall be designated as Interstate Route I-69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I-69. The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I-86. The Louie B. Nunn Parkway corridor referred to in subsection (c)(3) shall be designated as Interstate Route 66. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(3) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 66. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(3) for the Commonwealth, as segments of future Interstate Route 66. The Purchase Parkway corridor

referred to in subsection (c)(18)(E) shall be designated as Interstate Route 69. A State having jurisdiction over any segment of routes and/or corridors referred to in subsections (c)(18) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route 69. Notwithstanding the provisions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii), or any other provisions of this Act, the Commonwealth of Kentucky shall erect signs, as approved by the Secretary, identifying the routes and/or corridors described in subsection (c)(18) for the Commonwealth, as segments of future Interstate Route 69. The route referred to in subsection (c)(45) is designated as Interstate Route I-22. The routes referred to in subparagraphs (A) and (B)(i) of subsection (c)(26) and in subsection (c)(68)(B) are designated as Interstate Route I-11. The route referred to in subsection (c)(84) is designated as Interstate Route I-14. The route referred to in subsection (c)(89) is designated as Interstate Route I-57. The route referred to in subsection (c)(90) is designated as Interstate Route I-169. The route referred to in subsection (c)(91) is designated as Interstate Route I-569. *The route referred to in subsection (c)(97) is designated as Interstate Route I-365.*

\* \* \* \* \*

