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### AMERICA'S TRANSPORTATION INFRASTRUCTURE ACT OF 2019

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JANUARY 8, 2020.—Ordered to be printed  
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Mr. BARRASSO, from the Committee on Environment and Public  
Works, submitted the following

### R E P O R T

[To accompany S. 2302]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 2302) to amend title 23, United States Code, to authorize funds for Federal-aid highways and highway safety construction programs, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### 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 highway system, directed considerable funding to the building of the Interstate System, and established the Highway Trust Fund as the mechanism for financing the highway program. In addition, passage of the Highway Revenue Act of that same year 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 Highway Trust Fund as the means to finance the Federal-aid highway program. A number of multi-year authorization bills have been passed in the decades following which author-

ized and modified the Federal-aid highway program, provided formula funding to States for the construction and maintenance of the nation's highway system, and extended the highway-related fees deposited into the Highway Trust Fund.

*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 provided the transition from a Federal program based on completion of the Interstate System to a new Federal-State-local partnership focused on balancing national multimodal systems of transportation and State and local empowerment.

The three principal goals of ISTEA—intermodalism, flexibility, and efficiency—were intended to carry out the larger policy goal of developing a national intermodal transportation system that connected all forms of surface transportation in a unified and integrated manner. It was envisioned that such a system would include the Interstate System, principal arterial roads important for national defense, mobility, and commerce along with connections to intermodal transfer facilities, international commerce and border crossings, public transportation and commuter rail networks, ports, and airports. A primary purpose of ISTEA was the development of a transportation system that was economically efficient and environmentally sound, which provided the foundation for the nation to compete in a global economy and moved people and goods in an efficient manner.

*National Highway System Designation Act of 1995*

The National Highway System Designation Act (NHS Act) was signed into law by President 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 the Interstate System and those principal arterial routes that were essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities and trade. 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. 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 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—all hallmarks of ISTEA—were continued and enhanced by TEA-21.

*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. 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 at the Congressional Budget Office's baseline funding level of \$75,274,819,674 over fiscal years 2013 and 2014. MAP-21 modernized and reformed the transportation system to help create jobs, accelerate economic recovery, and build the foundation for long-term prosperity. The main goals of MAP-21 were to improve safety, reduce congestion and its impacts, refocus the Federal-aid highway program's investment in key networks and assets, improve the efficiency of infrastructure project delivery, increase flexibility, and establish data-driven decision-making and performance criteria. MAP-21 achieved many of those goals by consolidating and modernizing Federal surface transportation programs into a smaller number of programs with broader eligibilities, providing more grantee flexibility, and requiring data collection and performance targets for key transportation outcomes.

*Fixing America's Surface Transportation Act*

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) into law—the first Federal law in over a decade to provide long-term certainty and increased funding for surface transportation infrastructure planning and investment. The FAST Act authorized \$225,190,000,000 over fiscal years 2016 through 2020 for highway programs and maintained the structure of the various highway-related programs established in MAP-21. FAST maintained a focus on safety improvement, continued efforts to streamline project delivery and, for the first time ever, introduced both formula and competitive funding dedicated to highway and intermodal freight. With the enactment of FAST, State and local partners had a renewed Federal partnership that enabled them to carry out multi-year surface transportation plans with confidence.

*America's Transportation Infrastructure Act*

America's Transportation Infrastructure Act (ATIA) builds on the success of the programs and comprehensive reforms and performance-based approach to transportation investment included in MAP-21 and FAST. It also provides another five years of program authorization, at an increased funding level, giving State and local governments the certainty and stability they need to improve and develop our nation's transportation infrastructure. ATIA is the largest amount of funding provided by highway reauthorization legislation in history. The bill authorizes \$286,766,861,890 from the Highway Trust Fund for investments to maintain and repair America's roads and bridges and to keep our economy moving. Highlights of the legislation include:

*Strong, stable Federal partnership.*—ATIA builds upon the FAST Act and delivers a strong, stable Federal partnership through a 27 percent increase in funding over five years, relative to the previous five year period, with over 90 percent distributed to States by formula. Most importantly, this critical commitment is delivered on time and provides long-term continuity of funding for State and local governments to continue carrying out multi-year transportation plans.

*Infrastructure for Rebuilding America (INFRA).*—ATIA increases funding for the Nationally Significant Freight and Highway Projects program, currently known as "INFRA," by providing \$5,500,000,000 over five years. The bill increases funding flexibilities, and prioritizes certain critical rural state Interstate System interchange projects as well as certain urban state projects. The bill increases the minimum amount of INFRA funds that go towards smaller projects from 10 percent to 15 percent. The bill also increases the amount that may be used for eligible multimodal projects to 30 percent of the amounts made available for grants in each of fiscal years 2021 through 2025. This is an increase from the \$500,000,000 multimodal project limit provided in the FAST Act. The bill sets aside \$150,000,000 per year for a pilot program that prioritizes projects offering a higher non-Federal match. The bill also creates new grant administration transparency requirements.

*Bridge investment program.*—ATIA authorizes \$6,530,000,000 over five years, including \$3,265,000,000 from the Highway Trust Fund, for a competitive bridge program to address the backlog of bridges in or near poor condition nationwide. Every State with a well-justified proposal will receive funding to improve the condition and safety of its aging bridges. In addition, in order to enable agencies to support large bridge projects, no less than 50 percent of the program will support bridges with a total project cost larger than \$100,000,000. This program provides the opportunity for the use of multi-year grant agreements for large projects, to enable more bridge projects to receive the grant funding needed to proceed to construction. This legislation also includes a tribal set-aside of \$100,000,000 over the reauthorization to be directed to the Tribal Transportation Bridge Program.

*New safety programs.*—In addition to increases in the existing Highway Safety Improvement Program, ATIA includes a new safety funding supplemental of \$500,000,000 per year distributed to States based on their current formula share with a portion sub-allocated to urbanized and non-urbanized areas of each State based

on population. These funds support projects that would lower motor vehicle-related fatalities, with a particular focus on bicyclist and pedestrian safety. States can receive greater project flexibility and a higher Federal share if they meet certain safety planning requirements. In addition, States and local governments that have made progress on reducing fatalities can compete for additional funding awards.

ATIA provides \$250,000,000 over 5 years for projects designed to reduce wildlife-vehicle collisions, adds new eligibilities for wildlife crossing structures within formula and competitive programs, and prioritizes the research and development of animal detection systems to reduce the number of wildlife-vehicle collisions.

*Project delivery and process improvement.*—ATIA 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; a single environmental document and record of decision to be signed by all participating agencies; and an accountability and tracking system managed by the Secretary of the Department of Transportation (DOT). In addition, the bill provides project sponsors with the flexibility to apply the core elements of the One Federal Decision policy to highway projects that require an environmental assessment.

ATIA provides flexibility to 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. In addition, the bill requires the Secretary to provide a list of categorical exclusions applicable to highway projects to regulatory agencies and directs those agencies to publish a notice of proposed rulemaking to adopt relevant categorical exclusions, as appropriate, within one year.

To accelerate project delivery and to ensure the equitable treatment of States by the DOT, ATIA requires the Secretary to exercise all available flexibilities under current law, as long as they are in the public interest. The bill requires the Secretary to develop a simplified template for Federal-State stewardship agreements and to remove non-statutory approval requirements from such agreements. The bill amends DOT regulations to lower paperwork burdens on States associated with traffic management plans for highway projects, work zone process reviews, and intelligent transportation system standards.

ATIA includes changes to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program to streamline the application process and to increase transparency and timeline certainty for projects seeking TIFIA funds. Additionally, the bill adds new eligibilities to the TIFIA program.

ATIA increases funding for the Technology and Innovation Deployment Program. These funds include \$100,000,000 to support new and innovative construction technologies for smarter, accelerated project delivery.

*Tribal and Federal lands programs.*—ATIA provides increased funding for tribal and Federal lands transportation programs, which includes \$2,975,000,000 for the Tribal Transportation Program and \$2,165,000,000 for the Federal Lands Transportation Program over five years. In addition, the bill provides \$250,000,000 over five years in dedicated funding for the Nationally Significant

Federal Lands and Tribal Projects program, which will fund the construction and rehabilitation of nationally significant projects on Federal and tribal lands.

*Climate change.*—ATIA includes a new title dedicated to climate change including new programs to improve resiliency, protect the environment, and reduce emissions.

ATIA invests \$4,930,000,000 over 5 years in a new resiliency program to protect roads and bridges from natural disasters such as wildfires, and extreme weather events such as hurricanes, flooding, and mudslides. The new program includes both formula and competitive grant funding. This program will distribute \$3,930,000,000 to States based on their current formula share. The remaining \$1,000,000,000 will support resiliency projects nationwide on a competitive basis, including projects designed to improve resilience in coastal States and funds for emergency evacuation routes.

ATIA includes \$3,000,000,000 over 5 years in new funding distributed to States based on their current formula share to support projects, with a portion sub-allocated to urbanized and non-urbanized areas of each State based on population, to lower highway-related carbon emissions. States can receive greater project flexibility and a higher Federal share if they meet certain emissions planning requirements. States and cities that have made progress in lowering their highway-related carbon emissions can also compete for an additional \$500,000,000 over 5 years. Further, in preparation for the expected increase of alternative fuel vehicles, the bill establishes a competitive grant program funded at \$1,000,000,000 over 5 years, for States and localities to build hydrogen, natural gas, and electric vehicle (EV) fueling infrastructure along designated highway corridors which lack sufficient infrastructure.

ATIA includes \$200,000,000 over 5 years for a new program to help States and cities reduce traffic congestion in and around large urbanized areas, and \$370,000,000 over five years for a new program to reduce truck emissions at ports.

The bill also includes reauthorization of the Diesel Emissions Reduction Act (DERA) program through voluntary grants and rebates, which reduces emissions from diesel engines, and the Utilizing Significant Emissions with Innovative Technologies (USE IT) Act, to support research and deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

### *Conclusion*

Improving the nation's surface transportation infrastructure and improving upon the previously enacted reforms included in MAP-21 and FAST, and delivering five years of funding certainty at an increased funding level, will provide long-term benefits to the United States. With a 27 percent increase above the FAST Act and a first of its kind climate title, ATIA would be a bill of historic proportions and would deliver the largest funding authorization ever enacted. The bill also maintains each State's share of highway formula funding, ensuring that each State will receive increased funding. 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 roadway users, accelerate project delivery, improve resiliency to disasters, reduce highway emissions, and grow the economy.

#### OBJECTIVES OF THE LEGISLATION

S. 2302, as amended, authorizes Federal-aid highway and highway safety construction programs through Fiscal Year 2025.

#### SECTION-BY-SECTION ANALYSIS

##### *Sec. 1. Short title; table of contents*

Section 1 states that the Act may be cited as “America’s Transportation Infrastructure Act of 2019” (ATIA) 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 ATIA and amendments made by ATIA take effect on October 1, 2020.

#### TITLE I—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, as well as the level of certain authorizations for appropriation from the General Fund, for Federal-aid highway programs for the five-year authorization period of the bill, fiscal years 2021 through 2025.

##### *Sec. 1102. Obligation ceiling*

Section 1102 sets the annual limitation on obligations for Federal-aid highway programs for each of fiscal years 2021 through 2025. 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.

##### *Sec. 1104. Apportionment*

Section 1104 provides the amounts for administrative expenses of FHWA for each fiscal year and the calculation process for distrib-

uting Federal-aid highway funds between programs and 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 allows a State to use up to 15 percent of its NHPP funds 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.

*Sec. 1106. Emergency relief*

Section 1106 clarifies the Emergency Relief (ER) program to include repairing damage from natural disasters over a wide area caused by wildfire and sea level rise and to allow the use of ER program funds 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 also removes the restriction on funding for certain projects that were already included on a statewide transportation improvement plan at the time of a disaster. This section also 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.

*Sec. 1107. Federal share payable*

Section 1107 provides for a Federal share payable of up to 100 percent for a protective feature on a Federal-aid highway or bridge project if such protective feature is an improvement designed to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding, and other natural disasters.

*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 2021 through 2025. 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. 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 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 for the Transportation Alternatives Program (TAP), increases the minimum percentage of TAP funding that is sub-allocated on the basis of population to 57.5 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 7 percent of TAP funds on technical and application assistance and administration, adds eligibilities for smaller communities to apply for TAP funding, and adds flexibility to the application of Federal share requirements under TAP.

This section also adds new eligibilities to STBG including the construction of wildlife crossing structures, rural barge landings, docks, and waterfront infrastructure projects, and the construction of certain privately-owned ferry boats and terminals. This section allows program funds to be used for projects that use natural infrastructure to enhance resilience of a transportation facility otherwise eligible for assistance under STBG. This section also allows low water crossing replacement projects to be eligible for use under the off-system bridge set-aside, and allows such projects to be eligible for soft match credit if an entity pursues a project with its own funds. This section maintains the percentage of STBG funding that is suballocated at 55 percent.

*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 setting aside \$1,000,000,000 for certain critical rural state Interstate System interchange projects and certain urban state projects, and by raising the cap on eligible multimodal projects to 30 percent of the amounts made available for grants in each of fiscal years 2021 through 2025. 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 purpose of the pilot program is to incentivize eligible entities to offer more of their own funding by instructing DOT to prioritize grants that include larger State or non-Federal matches. In implementing the program, the Secretary is encouraged to fund multiple projects that improve the performance and safety of the national highway system, including by utilizing road designs that separate commercial truck traffic from passenger vehicle traffic.

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 when making NSFHP grants. The section adds wildlife crossings, surface transportation improvements functionally connected to an international border crossing, and marine highway projects functionally connected to the National Highway Freight Network as eligible projects.

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. 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 DOT 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 25 percent of its Highway Safety Improvement Program funds on such projects. This section includes leading pedestrian intervals as an eligible highway safety improvement project. Leading pedestrian intervals are traffic signals that allow pedestrians to begin walking prior to the green light for vehicles, which improves pedestrian safety.

*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, archae-

ological, and cultural values and visually connect or integrate the character of the Federal lands with adjacent areas and communities.

*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.

*Sec. 1116. National scenic byways program*

Section 1116 requires the Secretary to issue a request for nominations with respect to roads to be designated under the National Scenic Byways Program, and to publish the list of newly designated roads within one year of the date of enactment. This section does not provide funding for the program.

*Sec. 1117. Alaska highway*

Section 1117 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. 1118. Toll roads, bridges, tunnels, and ferries*

Section 1118 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.

*Sec. 1119. Bridge investment program*

Section 1119 establishes a new competitive grant program at 23 U.S.C. 124 to assist State, local, Federal and tribal entities in rehabilitating or replacing bridges, including culverts.

Subsection 124(a) defines eligible projects, which include a bundle of projects and culverts, and defines large projects, which means an eligible project with total eligible project costs of greater than \$100 million.

Subsection (b) establishes the program, and outlines program goals to improve the safety and condition of bridges in poor condition or that are at risk of falling into poor condition within 3 years, or that are not designed appropriately to meet the load and traffic requirements of the regional transportation network of which they are a part.

Subsection (c) sets forth grant authority, and minimum grant amounts for large projects and other eligible projects. 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. Further, subsection (c) details the maximum amount of assistance to be provided for projects, as well as Federal share requirements. Subsection (c) outlines the considerations the Secretary shall make when awarding grants. This subsection also 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 2021 through 2025, to award each State with not fewer than either 1 large project, or 2 other than large projects. In both cases, the Secretary shall only award funds to a project if the award is justified based on an evaluation of the project's application. Subsection (c) also places a 5 percent cap on the amount of funds to be made available for each fiscal year for eligible projects that consist solely of culvert replacement or rehabilitation.

Subsection (d) lists entities that are eligible to receive grants under the program.

Subsection (e) outlines eligible project requirements.

Subsection (f) details the competitive process and evaluation of eligible projects other than large projects which requires the Secretary to solicit grant applications annually, to evaluate the proposed projects' benefits and costs and the likelihood that benefits outweigh costs, and to assign a quality rating on the basis of that evaluation. In addition, the Secretary is required to develop a template for applicants to summarize project needs and benefits with the goal of improving access to the program for all applications and reducing the cost of application development.

Subsection (g) details the application and evaluation process for large projects, which are projects with over \$100,000,000 in total project costs. This subsection requires the Secretary to submit an annual report to Congress on funding recommendations for large projects, subject to certain requirements, limitations, and considerations. This subsection requires the Secretary to determine whether an application is complete, and to evaluate each large project application in order to determine whether or not the project is justified. This subsection requires the Secretary to evaluate and rate

certain large project attributes, including the application's benefits, cost effectiveness, and long-term financial commitments, on a 5-point scale: 'high', 'medium-high', 'medium', 'medium-low', and 'low'. This subsection requires that, in order to be considered justified and receive a recommendation for funding in the annual report, the project must receive a rating of not less than 'medium' for these certain attributes. This subsection requires that the Secretary submit an annual report on the large projects that are recommended for funding 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, in which the Secretary may also recommend the use of funds from the General Fund of the Treasury to fund large projects.

Subsection (h) outlines eligible project costs.

Subsection (i) provides that on the request of an eligible entity, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs of Federal credit assistance under TIFIA if such assistance is for the project for which the grant was awarded.

Subsection (j) authorizes the Secretary to provide funding for large projects in the form of multiyear grant agreements and details the terms and other parameters of such agreements.

Subsection (k) permits the Secretary to, under certain conditions, pay an applicant all eligible project costs under the program, including costs for activities incurred prior to the date the project receives funding under the program.

Subsection (l) outlines the treatment of Federally-owned bridges under the program, and requires agencies that own such bridges to consider divestment options after project completion. Federal agencies may submit joint applications with the State or local entity to which the bridge may be divested.

Subsection (m) requires that the Secretary notify Congress before making a grant for an eligible project under the program.

Subsection (n) contains separate program reporting requirements for the Secretary and the Comptroller General.

Subsection (o) requires that at least 50 percent of program funds, in the aggregate from fiscal years 2021 through 2025, be used for large projects.

Subsection (p) sets aside a total of \$100 million over five years for tribal bridge projects.

In general, the Committee has prioritized the distribution of Federal-aid highway funding under ATIA by formula so that funds improve the surface transportation networks of all States, and it is the intent of the Committee that each State benefit from funding provided under this section. Consistent with this prioritization of nationally distributed benefits, funding provided for the Bridge Investment Program, although competitively awarded, is conditioned in a way that provides assurance to each State that it will receive a grant or grants under the program if it consistently submits sufficiently qualified applications. It is the intent of the Committee that the Bridge Investment Program responds to both the national interest in having a competitive process based on project ratings as well as each State's interest in addressing bridges in poor condition or nearing poor condition within that State.

More specifically, to be able to receive a grant for a project under the per State minimum grant award requirement in subsection (c), the Secretary is to determine that an eligible bridge project is justified under subsection (g)—for a large project—or under subsection (f) for a project other than a large project. In the case of large projects, paragraph (4) of subsection (g) lists factors and paragraph (5) states that DOT is to develop ratings for large bridge projects. The ratings are “high”, “medium-high”, “medium”, “medium-low”, and “low”. Paragraph (5) also specifies that in order for a large project to be considered justified, the application does not have to be rated higher than medium across certain specified attributes. However, that requirement does not assure each State receipt of a large project grant, as DOT can satisfy the State guarantee provision under subsection (c) through grants for projects other than large projects.

In the case of grant applications for projects other than large projects, subsection (f) does not specify a rating system as is done in subsection (g) for large projects. It is the intent of the Committee that the Secretary have more flexibility as to the establishment of a ratings scheme for projects other than large projects. Paragraph (3) of subsection (f) refers to a project receiving a “quality” rating without elaborating as to what quality rating would deem the project to be a “justified” project. However, the structure of the provision is clear that a similar rating system is to be applied by the Secretary to projects other than large projects; it is to be similar to or as is required in the case of large projects. Further, it is the intent of the Committee that an application for a project other than a large project does not have to earn the highest rating, or even an above average rating, to be considered justified for the purposes of the per State minimum grant award requirement in subsection (c). Instead, it is the intent of the Committee that any project that receives at least a medium quality rating, as determined by the Secretary, shall be considered a justified project.

*Sec. 1120. Safe routes to school program*

Section 1120 amends the Safe Routes to School Program to apply the program through 12th grade to enable and encourage high school students to walk and bike to school safely.

*Sec. 1121. Highway use tax evasion projects*

Section 1121 reauthorizes funding to be used by the Secretary in conjunction with the Internal Revenue Service to address highway use tax evasion for fiscal years 2021 through 2025.

*Sec. 1122. Construction of ferry boats and ferry terminal facilities*

Section 1122 increases funding for the ferry boat program, which funds the construction of ferry boats and ferry terminal facilities. This section authorizes a total of \$440,000,000 in funding from the Highway Trust Fund for fiscal years 2021 through 2025.

*Sec. 1123. Balance for exchanges program*

Section 1123 establishes the Balance Exchanges for Infrastructure program for the purpose of incentivizing certain States and the Department of Transportation to use unobligated balances of funding to improve highway infrastructure. This section requires

the Secretary to reserve a portion of the unobligated and unallocated carryover balances from the Transportation Infrastructure Finance and Innovation Act (TIFIA) program for transfers to the new program established under this section. Prior to making such transfers, this section requires the Secretary to solicit from States that contain one or more counties in the Appalachian region requests to exchange all or a portion of unobligated amounts apportioned for projects on the Appalachian Development Highway System (ADHS) in return for an equal amount of new funding. Also, prior to making such transfers, this section requires the Secretary to solicit grant applications for projects along the uncompleted portions of the ADHS. The section provides that any State that enters into an agreement to exchange ADHS funds shall not be eligible to compete for the ADHS grants.

In the case of States that request to exchange ADHS funding, this section requires the Secretary to enter into agreements with such States under which those States shall return unobligated ADHS amounts in exchange for an equal amount of new funding. This section provides that this new funding shall be available for projects eligible under the Surface Transportation Block Grant program. To fund the exchanges, the section requires the Secretary to make transfers from the TIFIA program in an amount that is the lesser of the total amount of ADHS funding requested for exchange, the total amount requested for competitive ADHS grants, or the amount by which the unobligated and unallocated TIFIA carryover balance exceeds the amount made available to carry out the TIFIA program for that fiscal year. In the event that the amounts of ADHS funding proposed for exchange exceed the amounts available for exchange, the section requires the Secretary to make the funding exchanges on a proportional basis. This section requires the Secretary to then use ADHS funds returned in conjunction with the exchanges to competitively fund applications for new ADHS highway projects that are reasonably expected to begin construction within two years.

*Sec. 1124. Safety incentives program*

Subsection (a) of Section 1124 amends title 23 to establish a supplemental formula safety program (at 23 U.S.C. 172) and a competitive safety performance awards program (at 23 U.S.C. 173). These programs provide funding to States and urbanized areas to expand investments in transportation safety projects. These are respectively entitled the Formula Safety Incentive Program, and the Fatality Reduction Performance Program.

*Formula Safety Incentive Program.*—Subsection (a) of section 172 contains definitions of a metropolitan planning organization (MPO) and an urbanized area, a transportation planning area, a vulnerable road user, and a vulnerable road user safety focus area.

Subsection (b) of section 172 requires the Secretary to distribute formula funding awards in the same proportion as the primary Federal-aid highway funding that is formula apportioned to States.

Subsection (c) of section 172 requires States to use 50 percent of their funding awards on certain safety-related eligible projects, and limits eligibility for certain States and MPOs that are vulnerable road user safety focus areas to highway safety projects that im-

prove the safety of vulnerable road users such as pedestrians and bicyclists.

Subsection (d) of section 172 establishes eligibility requirements and incentives for the remaining 50% of each State's funding award. In general, each State is required to spend the remaining half of their funding on the same safety-related projects described in subsection (c). However, under this subsection, each State may develop and publish a vulnerable road user safety assessment and in return receive greater flexibility and Federal cost share on the remaining 50% of their award. Each assessment consists of a report on the performance of the State with respect to vulnerable road user safety and a project plan, developed in consultation with relevant metropolitan planning organizations, to improve vulnerable road user safety. States that publish a vulnerable road user assessment and incorporate such assessment into their long-range transportation plans are permitted to spend the remaining 50% of their award on any project eligible under the Surface Transportation Block Grant (STGB) program and at increased Federal share.

Subsection (e) of section 172 contains suballocation requirements.

*Fatality Reduction Performance Program.*—Subsection (a) of section 173 contains definitions of a metropolitan planning organization and an urbanized area, a qualifying State, and a qualifying unit of a local government. Qualifying States and units of local governments are defined as those jurisdictions that have demonstrated measurable success at lowering serious injuries and fatalities.

Subsection (b) of section 173 directs the Secretary to establish a competitive grant program to competitively award grants to such qualifying jurisdictions across a variety of fatality and serious injury reduction performance categories. The Secretary is required to make grant awards between \$5,000,000 and \$30,000,000 to recognize the achievement of qualifying jurisdictions that have accomplished the most significant levels of reduction in serious injury and fatality rates. The Secretary is permitted to make awards to multiple eligible entities for each performance category, and to recognize achievements in each performance category in urban and rural areas, as well as at the State and local level. The Secretary may not award a grant to the same eligible entity more than once during a 2-year period. Funding awarded under this subsection can be used for any activity eligible under title 23 as well as routine maintenance projects.

Subsection (b) of Section 1124 establishes a vulnerable road user research plan as well as reporting requirements to Congress regarding the plan. This subsection requires the FHWA to prioritize research on designs and countermeasures to minimize fatalities and serious injuries to vulnerable road users including pedestrians and bicyclists. This subsection also requires the FHWA to review each vulnerable road user safety assessment submitted by a State and to determine whether guidance should be issued on vulnerable road user safety data collection.

*Sec. 1125. Wildlife crossing safety*

Section 1125 establishes a wildlife crossing pilot program (at 23 U.S.C. 174) to provide grants for projects designed to reduce wildlife-vehicle collisions and improve habitat connectivity. Excepting

instances where the applicant is a Federal entity, pilot program grant applicants are required to consult with State highway (or equivalent) agencies during application development, and are encouraged to obtain guidance from State agencies with jurisdiction over fish and wildlife. Pilot program grants are to be administered by State highway agencies or the Federal Highway Administration. The Secretary is required to provide an annual report to Congress describing the activities carried out under the pilot program and the pilot program's effectiveness.

Section 1125 also requires the Secretary to update and expand on a 2008 report entitled "Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress" within 18 months of enactment of the surface transportation reauthorization legislation. This section requires the Secretary, not later than 3 years after enactment, to develop a series of in-person and online workforce development and technical training courses to reduce wildlife-vehicle collisions and improve habitat connectivity. In addition, this section requires the Federal Highway Administration to develop a standardized methodology for collecting and reporting spatially precise wildlife collision and carcass data for the National Highway System, create guidelines for States to voluntarily utilize such methodology if they choose to do so, and provide a report to Congress regarding the methodology and guidelines within 18 months of enactment. Further, this section requires the Secretary to establish guidance, to be carried out by States on a voluntary basis, which contains a threshold for determining whether a highway shall be evaluated for potential mitigation measures to reduce wildlife-vehicle collisions and to increase habitat connectivity.

Section 1125 adds the word "resilience" to the declaration of policy regarding maintenance of and improvements to bridges and tunnels in the United States, and adds a new provision "to ensure adequate fish and terrestrial wildlife passage, where appropriate." This section also requires the Secretary, in consultation with States and other Federal agencies with jurisdiction over highway bridges and tunnels, to determine whether replacement or rehabilitation of bridges and tunnels should include restoration of wildlife habitat connectivity. Further, this section requires the DOT to include in its first post-enactment revision to its training program for personnel, techniques to assess fish passage and wildlife habitat restoration potential.

*Sec. 1126. Consolidation of programs*

Section 1126 provides funding for Operation Lifesaver, work zone safety grants, and safety clearinghouses for fiscal years 2021 through 2025.

*Sec. 1127. State freight advisory committees*

Section 1127 adds to the makeup and role of State freight advisory committees, and lists State freight advisory committee member qualifications.

*Sec. 1128. Territorial and Puerto Rico highway program*

Section 1128 authorizes increased funding for the Territorial and Puerto Rico Highway Program, a total of \$841,000,000 for Puerto

Rico for fiscal years 2021 through 2025, and \$221,000,000 for the territories.

*Sec. 1129. Nationally significant Federal lands and Tribal projects program*

Section 1129 amends Nationally Significant Federal Lands and Tribal Projects Program (NSFLTP) within the FAST Act 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 2021 through 2025 at least one Federal lands project be in a unit of the National Park System with not less than 3,000,000 annual visitors, as determined by individual visitors or Average Annual Daily Traffic.

*Sec. 1130. Tribal high priority projects program*

Section 1130 reinstates and reauthorizes funding for the Tribal High Priority Projects program at \$30,000,000 for each of fiscal years 2021 through 2025 from the General Fund, and sets aside for the program \$9,000,000 per year for each of fiscal years 2021 through 2025 from the Tribal Transportation Program.

SUBTITLE B—PLANNING AND PERFORMANCE MANAGEMENT

*Sec. 1201. Transportation planning*

Section 1201 clarifies considerations required of MPOs 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. As this is a straightforward statutory change, it is the understanding and intent of the Committee that the Secretary may implement this change in policy without undertaking a notice and public comment rulemaking.

*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 under title 23. These voluntary human capital plans are to be publicly available and updated at least once every 5 years.

*Sec. 1204. Accessibility data pilot program*

Section 1204 requires the Secretary to carry out a pilot program to provide data on the level of transportation access the public has to important destinations, such as daily workplaces, health care and child care facilities, education and training, grocery stores, Americans with Disabilities Act (ADA) accessible sidewalks, and safe bi-

cycling corridors, as identified by each pilot program participant to improve their transportation planning. This section instructs the Secretary to seek to achieve a diversity of participants, and likewise seek to ensure that, among the eligible entities selected, there is a range of capacity and previous experience with measuring transportation access, and a variety of proposed methodologies and focus areas for measuring level access. This section also requires the Secretary to submit a report on the results of the program to Congress.

*Sec. 1205. Prioritization process pilot program*

Section 1205 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. 1206. Exemptions for low population density States*

Section 1206 modifies section 150 of title 23 to require the Secretary to grant an exemption from certain transportation performance management data collection. These are reporting requirements related to measures of congestion and highway performance for States that are below certain population density thresholds and do not contain an urbanized area with a population of over 200,000. The Secretary is required to identify which States meet the specified eligibility requirements for each 4-year performance period and to grant certain exemptions from certain requirements under section 150 at the request of such States. The section requires a granted exemption to remain in effect for at least the entirety of the subsequent 4-year performance period and to be eligible for renewal for each 4-year performance period thereafter at the option of the State so long as such State remains eligible. The section requires eligible States to notify the Secretary of exemptions being elected by the State including a notice that the State is not experiencing significant performance issues. The section requires the Secretary to submit to Congress a report on the status of traffic congestions and other measures of travel reliability as well as the results of performance measures for all exemptions applied to that State.

This is an obligation of the Secretary to be carried out at the Department's expense. The Section requires the Secretary to make publicly available the performance of the State with respect to any measures from which the State is exempt. This is an obligation of the Secretary to be carried out at the Department's expense.

*Sec. 1207. Travel demand data and modeling*

Section 1207 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.

*Sec. 1208. Increasing safe and accessible transportation options*

Section 1208 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 also provides for a higher Federal share for such activities.

SUBTITLE C—PROJECT DELIVERY AND PROCESS IMPROVEMENT

*Sec. 1301. Efficient environmental reviews for project decision-making and One Federal Decision*

Section 1301 codifies core elements of the Administration's One Federal Decision policy and provides new environmental review procedures and requirements through amendments to section 139 of title 23, United States Code.

Section 1301 introduces the One Federal Decision policy's concept of a major project to section 139. Building on the existing definition of project in section 139, this section defines major project as a highway project, public transportation capital project, or multimodal project that requires approval of the Department of Transportation, including any operating administration or secretarial office, an environmental impact statement, and multiple Federal approvals, permits, reviews, or studies. Through operation of section 24201 of title 49, the One Federal Decision policy provisions are also applicable to railroad projects under the Department of Transportation's jurisdiction. A major project must also have identifiable and reasonably available funding. Further, the definition of major project excludes projects treated as covered projects, as defined in section 41001 of the FAST Act (42 U.S.C. 4370m), to avoid conflict with the Federal Permitting Improvement Steering Council's process improvement provisions. For major projects, section 1301 requires the lead Federal agency to develop a schedule that is consistent, to the maximum extent practicable, with an agency average of not more than 2 years for the completion of the environmental review process, as measured from the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision. Subject to limited exceptions, all other Fed-

eral agency authorizations for the project shall be completed within 90 days of the issuance of the record of decision.

With codification, it is not this Committee's intent to change the Administration's existing interpretation or implementation of the One Federal Decision policy with two key exceptions. First, section 1301 provides project sponsors with the flexibility to apply the core elements of the One Federal Decision policy to projects that require an environmental assessment. And second, this avoids potential conflict with the Federal permitting improvement provisions in 42 U.S.C. 4370m *et seq.*

Section 1301 amends the schedule provisions to allow the lead agency to lengthen or shorten a schedule for good cause, provided that a shortened schedule does not impair the ability of a cooperating agency to conduct necessary analysis or otherwise carry out its obligations. Further, in the case of a major project, the lead agency may only lengthen a schedule by not more than one year though the agencies can take action sooner if they so choose after the latest deadline for the major project. This section adds additional reporting requirements and requires the Secretary to develop an accountability system for the major project environmental review process.

Section 1301 requires the Secretary to provide a list of categorical exclusions applicable to highway projects to regulatory agencies and directs those agencies to publish a notice of proposed rule-making to adopt relevant categorical exclusions, as appropriate, within one year.

Section 1301 adds a new subparagraph (D) to section 139(c)(6) that directs the lead agency to calculate the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year. In order to calculate the average completion time, the Committee intends subparagraph (D) to require the lead agency to record the start and end dates for each of the environmental documents developed pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). For example, lead agency staff should record the date on which they begin development of a draft environmental impact statement. Lead agency staff should then record the end date on which the final version of the draft environmental impact statement is approved for publication. While specific beginning and end dates are not required under subparagraph (D), it is the Committee's intent the annual calculation of the average time to complete each environmental document will be based on that level of detail.

In order to improve efficiency and expedite project delivery, the Committee recommends that DOT identify opportunities to eliminate unnecessary regulations and streamline burdensome regulations to ensure DOT is a good steward of limited taxpayer resources and produces physical infrastructure that supports long-term economic growth. Further, in reducing the regulatory burden, DOT should identify areas where more autonomy can be given to local jurisdictions with a better understanding of needs and challenges in building and maintaining infrastructure.

#### *Sec. 1302. Work zone process reviews*

Section 1302 requires the Secretary to amend section 630.1008(e) of title 23, Code of Federal Regulations, to ensure that the work

zone process reviews are not required more frequently than once every 5 years.

*Sec. 1303. Transportation management plans*

Section 1303 requires the Secretary to amend section 630.1010(c) of title 23, Code of Federal Regulations to clarify that only projects with a lane closure for 3 or more consecutive days are to be deemed significant. This section also requires the Secretary to modify the Code of Federal Regulations to remove 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 described in part 940 of title 23, Code of Federal Regulations. 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 amends sections 201 and 308 of title 23, United States Code, to provide 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 provides that, at a minimum, the contracting methods shall include project and bridge bundling, design-build and 2-phase contracting, long-term concession agreements, and any other method tested or amendable to testing under an experimental program relating to contracting methods carried out by the Secretary. This section requires that the Secretary solicit input from stakeholders and consult with Federal land management agencies to establish clear procedures for alternative contracting methods that are consistent with Federal procurement requirements to the maximum extent practicable.

*Sec. 1306. Flexibility for projects*

Section 1306 amends the FAST Act to require 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. It is the Committee's intent with this provision that all States shall be given equal treatment in terms of the flexibility that can be granted under existing law by the Secretary at the request of a State.

*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. The Secretary is required to allow comment on any aspect of the template. DOT is specifically directed to request public comment on whether current standard terms should be deleted if they

are not specifically required by Federal statute or regulation. DOT is also specifically directed to request public comment on the review schedules and whether they should be adjusted, through risk-based approaches or other means. Should DOT choose to retain such terms after considering public comment (if permitted by subsections (e) or (f)), the Federal Register notice setting forth the revised standard terms must set forth an explanation why such term(s) are being included.

Subsection (e) requires the Secretary to publish in the Federal Register a description of changes to be made to the template in response to comments, responses to comments not proposed to be addressed by changes to the template, and a schedule and plan for implementing proposed changes. This section also requires the Secretary to make the proposed revisions to the template and to update existing agreements with States according to the revised template.

Subsection (f) establishes that the Secretary shall not enforce agreement terms that require a State to comply with approval requirements not required by Federal law or regulation, and prohibits the Secretary from asserting an approval authority over a matter that is otherwise reserved to States.

The section changes the general rule of annual reviews that address project delivery systems of States under section 106 to a general rule of review every two years. The section provides that, in the case of a specific element of a State's project delivery system, a State and DOT can agree on a longer than two year review period and the Secretary is permitted to review an element more frequently than once every two years for a specified reason.

The Committee received hearing testimony that described instances of Federal-State stewardship and oversight agreements between DOT and States that went beyond administrative purposes and became burdensome. This includes the imposition of approval and notice requirements not required by statute, including in areas where, by Federal statute, authority has been placed with the States such as standards and designs for roads not on the National Highway System. Moreover, under current practice, Federal reviews and approvals of State actions and practices are annual, even for routine matters that could be subject to less frequent review, and a reduction in frequency would enable both DOT and States to focus on more important tasks. Accordingly, section 1307 was developed.

#### *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.

The Committee recognizes the need to modernize the use of new and existing geospatial information sources and the collection of that information through a variety of means, including remotely operated and stationary technologies like sensor-equipped vehicles, buildings, and unmanned drones.

*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.

The Committee recognizes that even smaller highway projects can require numerous approvals or permits from Federal agencies other than the Federal Highway Administration. The smaller projects in the operational right-of-way at issue in this section can languish in backlog of requests to Federal agencies. In this section, the Committee ensures that those Federal agencies are responsive to project sponsors with maintenance, preservation, and safety projects in the operational right-of-way.

*Sec. 1310. Department of Transportation reports*

Section 1310 adds a new section 332 to chapter 3 of title 23, United States Code, to require the Secretary to prepare a report on the preceding fiscal year describing the median time for the completion of environmental reviews. As part of the report, the Secretary shall describe any new categorical exclusions applicable to highway projects and list all regulatory requirements that have been removed or reduced, including, if available, a summary of cost savings to States, Tribes, local government, and the public. This section also requires the report to contain similar information for the current fiscal year, to the extent it is available, on the estimated median time to complete environmental reviews and a summary of costs savings, if available, to States, Tribes, local governments, and the public, resulting from the removal or reduction of regulatory requirements.

*Sec. 1311. Preliminary engineering*

Section 1311 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.

## SUBTITLE D—CLIMATE CHANGE

*Sec. 1401. Grants for charging and fueling infrastructure to modernize and reconnect America for the 21st century*

Section 1401 would amend section 151 of title 23 to make the process of designating alternative fuel corridors periodic and recurring, and also modifies a reporting deadline.

This section also creates a new subsection (f) within section 151 that establishes a new competitive grant program to strategically deploy alternative fuel vehicle charging and fueling infrastructure along designated alternative fuel corridors that will be accessible to all drivers of electric, hydrogen, and natural gas vehicles.

Within the new subsection (f), paragraph (1) directs the Secretary to establish the grant program.

Paragraph (2) lists eligible entities under the program, which 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, 1 or more of the preceding eligible entities; and a group of the preceding eligible entities.

Paragraph (3) outlines application requirements for 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.

Paragraph (4) details considerations the Secretary shall make when selecting eligible entities to receive grants. Such considerations include the extent to which 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 consider 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.

Paragraph (5) describes permitted uses of grant funds. Generally, grants 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 5 years of operations after infrastructure installation. Operating assistance is limited to costs allocable to operating and maintaining the infrastructure and service—including labor, marketing, and administrative costs and may not exceed the contracted amount to acquire and install the infrastructure. Eligible entities may also use a portion of grant funds to acquire and install traffic control devices to provide direction information to the infrastructure, as well as on-premises informational signs, subject to a monetary cap and any applicable laws or regulations. This paragraph also allows an eligible entity to enter into cost-sharing agreements, under which the private entity submits to the eligible entity a portion of the revenue from the infrastructure.

Paragraph (6) provides that any project funded by a grant under this program is to be treated as a project on a Federal-aid highway. This paragraph also requires that any traffic control device or on-premises sign acquired, installed, or operated with a grant under this program must comply with the Manual on Uniform Traffic

Control Devices (MUTCD), if located in the right-of-way, as well as other applicable provisions of Federal, State, and local law.

Paragraph (7) requires that 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.

Paragraph (8) requires the Secretary to submit to Congress, and make publically available, a report on the progress and implementation of the grant program.

With regard to electric vehicle (EV) charging infrastructure, hydrogen fueling infrastructure, and natural gas fueling infrastructure, it is the Committee's intent that eligible entities who receive grants to acquire and install publicly accessible charging and fueling infrastructure partner with private entities that would own and operate the infrastructure. It is not the intent of this section to subsidize public entities to compete with private providers of such services, either directly or indirectly. Thus, it is the Committee's intent that the Secretary award grants to deploy EV charging infrastructure, hydrogen fueling infrastructure, and natural gas fueling infrastructure, and give priority consideration to eligible entities seeking to partner with private entities other than those regulated by state public utility commissions (unless doing so would hinder deployment of electric, hydrogen, and natural gas fueling stations and deployment of the infrastructure needed to construct such charging and fueling stations). Further, it is the intent of the Committee that in order to protect competitive market pricing, that site hosts or motorists who use the publically accessible charging and fueling infrastructure funded under this section are expected to pay the costs to refuel. It is the intent of the Committee that the program should maintain a level playing field and that no entity should receive an unfair advantage in the EV charging infrastructure, hydrogen fueling infrastructure, or natural gas fueling infrastructure business. The Committee believes that this is necessary to maximize investment in and widespread availability of charging or fueling infrastructure.

*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. It is the intent of the Committee that ferry terminals would also be eligible for grants under this section.

*Sec. 1403. Carbon reduction incentive programs*

Section 1403 amends title 23 to establish a supplemental formula emissions reduction program (at 23 U.S.C. 177) and a competitive emissions reduction program (at 23 U.S.C. 178). These programs provide funding to States to expand investment in transportation

to reduce on- road mobile sources of carbon dioxide and to incentivize planning and investments to reduce carbon dioxide emissions. These programs are respectively entitled the Formula Carbon Reduction Incentive Program, and the Carbon Reduction Performance Program.

*Formula Carbon Reduction Incentive Program.*—Subsection (a) of section 177 contains definitions of a metropolitan planning organization and an urbanized area, transportation emissions, and a transportation planning area.

Subsection (b) of section 177 requires the Secretary to distribute formula funding awards in the same proportion as the primary Federal-aid highway funding that is formula apportioned to States.

Subsection (c) of section 177 requires States to use 50 percent of their funding awards on certain transportation projects anticipated to reduce emissions such as projects to shift traffic demand to nonpeak hours or to other transportation modes, or projects to implement other traffic management techniques, or projects to reduce vehicle emissions through truck stop electrification and diesel engine retrofits, among other activities. This funding would be eligible for the construction of high occupancy vehicle lanes but this section prohibits the use of this funding on projects that would result in the construction of new lane capacity available to single-occupant vehicles (other than turn lanes).

Subsection (d) of section 177 establishes eligibility requirements and incentives for the remaining 50% of each State's funding award. In general, each State is required to spend the remaining half of their funding on the same emissions reduction projects described in subsection (c). However, under this subsection, each State may develop a carbon reduction strategy in consultation with MPOs within the State, and in return receive greater flexibility and Federal cost share on the remaining 50% of their award. States that develop a strategy and incorporate it into their long-range transportation plans are permitted to spend the remaining 50% of their award on any project eligible under the Surface Transportation Block Grant program and at increased Federal share.

Subsection (e) of section 177 contains suballocation requirements.

*Carbon Reduction Performance Program.*—Subsection (a) of section 178 contains definitions of a metropolitan planning organization and an urbanized area, a qualifying State, a qualifying unit of a local government, and transportation emissions. Qualifying States and units of local governments are defined as those jurisdictions that have demonstrated measurable success at lowering transportation emissions or transportation emissions growth.

Subsection (b) of section 178 directs the Secretary to establish a grant program to competitively award grants to such qualifying jurisdictions across a variety of carbon emissions reduction performance categories. The Secretary is required to make grant awards between \$5,000,000 and \$30,000,000 to recognize the achievement of qualifying jurisdictions that have accomplished the most significant levels of reduction in transportation emissions. The Secretary is permitted to make awards to multiple eligible entities for each performance category, and to recognize achievements in each performance category in urban and rural areas, as well as at the State and local level. The Secretary may not award a grant to the same eligible entity more than once during a 2-year period. Funding

awarded under this subsection can be used for any activity eligible under title 23 as well as routine maintenance projects.

*Sec. 1404. Congestion relief program*

Subsection (a) of Section 1404 amends section 129 of title 23 to establish 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. Utilizing significant emissions with innovative technologies*

Subsection (a) of Section 1406 directs the Environmental Protection Agency (EPA), in consultation with the Department of Energy, to conduct certain carbon dioxide research and development activi-

ties under the existing authority in section 103(g) of the Clean Air Act.

Subsection (a) requires the EPA Administrator to administer a competitive prize program that awards funds to direct air capture research projects. The subsection establishes a Direct Air Capture Technology Advisory Board of experts to advise the Administrator. The subsection authorizes up to \$35,000,000 in funding and sunsets the program in 10 years.

Subsection (a) also directs the Administrator to provide technical and financial assistance to carbon dioxide utilization projects to support projects to transform carbon dioxide generated by industrial facilities in the United States into a commercial product, or as an input to a commercial product. This section authorizes up to \$50,000,000 in funding, available until expended.

Subsection (a) directs the Administrator to prepare a report that identifies potential risks and benefits to project developers associated with increased storage of carbon dioxide captured from stationary sources in deep saline formations. The subsection requires the EPA Administrator to evaluate existing research and make recommendations about how to address any identified potential risks. Subsection (a) also directs the Administrator to submit a report every two years on carbon dioxide nonregulatory strategies and technologies under section 103(g). Subsection (a) directs the Comptroller General to develop a report on Federal grant programs that fund research on carbon capture and utilization technologies and the extent to which any overlap or are duplicative.

Subsection (b) directs the Administrator to describe how funds appropriated under section 103(g) of the Clean Air Act have been used over the last five fiscal years, as well as practices used to differentiate funding used to carry out section 103(g) and other authorities.

Subsection (c) amends existing law to clarify that “covered projects” eligible for the environmental permitting process established by Title XLI of the FAST Act include construction of carbon capture, utilization, and sequestration (CCUS) projects as well as carbon dioxide pipelines. CCUS projects include direct air capture projects.

Subsection (d) directs the Chair of the Council on Environmental Quality (CEQ) to coordinate preparation of an interagency report on CCUS facilities (including direct air capture projects) and carbon dioxide pipelines. The section requires CEQ to issue permitting guidance informed by that report to expedite the CCUS permitting process while maintaining environmental, health, and safety protections. On an ongoing basis, the section requires at least two regional task forces that cover different geographical areas and are comprised of diverse stakeholders to provide feedback to the Chair on the guidance and related issues.

*Sec. 1407. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant program*

Section 1407 establishes a supplemental formula and competitive grant program (at 23 U.S.C. 179) to help States improve the resiliency of transportation infrastructure.

Subsection (a) contains definitions of an emergency event, an evacuation route, the program, and a resilience improvement.

Subsection (b) establishes the PROTECT grant program, comprised of formula funding and competitive grants for resiliency projects. It is the intent of the Committee that the primary purpose of this program is to protect surface transportation assets in existence as of the date of enactment. Investments to protect new capacity are eligible but subject to limitations specified in statute.

Subsection (c) requires the Secretary to distribute formula funding awards, outlines the method of distribution, and describes eligible activities and requirements that accompany formula awards.

Subsection (d) requires the Secretary to provide competitive planning and resilience grants to eligible entities. Resilience grants comprise resilience improvement grants, community resilience and evacuation route grants, and at-risk coastal infrastructure grants. Subsection (d) also contains a list of grant requirements, including eligibilities, eligible project costs, Federal cost share requirements, and distribution parameters that contain rural and tribal set-asides, allow multiyear grants, and permit funding reallocation.

Subsection (e) requires the Secretary to, in carrying out the program, consult with the Assistant Secretary of the Army for Civil Works, the Administrator of the EPA, the Secretary of the Department of Interior (DOI), and the Secretary of the Department of Commerce (DOC), and to solicit technical support from the Administrator of the Federal Emergency Management Agency (FEMA).

Subsection (f) 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, the non-Federal share of projects carried out with PROTECT funds can be reduced by 7 percent if a State or eligible entity develops a resiliency improvement plan, and reduced by an additional 3 percent if a State or eligible entity incorporates a resiliency improvement plan within its long-range statewide transportation plan or metropolitan transportation plan.

Subsection (f) also outlines the required plan contents of a voluntary resilience improvement plan. This section does not require a State or MPO to develop a resilience improvement plan or incorporate such plan into a long-range statewide transportation plan or metropolitan transportation plan.

Subsection (g) contains monitoring requirements, and requires the Secretary (in consultation with the Assistant Secretary of the Army for Civil Works, the Administrator of EPA, the Secretary of DOI, the Secretary of DOC, and the Administrator of FEMA) to evaluate the effectiveness and impacts of projects carried out under the PROTECT program by establishing metrics and procedures to evaluate projects. The Secretary is required to publish and provide the opportunity for public comment on proposed metrics prior to adoption.

Subsection (h) contains reporting requirements to be carried out by the Secretary.

*Sec. 1408. Diesel emissions reduction*

Subsection (a) of Section 1408 extends the authorization of the Diesel Emissions Reduction Act (DERA) program through fiscal year 2024. Subsection (b) changes current law to make it clear that

EPA must recognize that there are differing diesel vehicle, engine, equipment or fleet use concerns in different areas of the country as the agency funds DERA projects.

Subsection (b) clarifies that in prioritizing projects for funding under the national competitive program, EPA must “recogniz[e] differences in typical vehicle, engine, equipment, and fleet use.” The subsection also commits the agency to “recognition, for purposes of implementing this section, of differences in typical vehicle, engine, equipment, and fleet use throughout the United States, including expected useful life” in guidance that the agency issues to States to assist in preparing funding applications under the State-administered program. Subsection (c) changes current law by requiring all money left over from the State-administered program (whether for a State that chooses not to participate or allocated to a State but unused) would be reallocated to the national competitive program.

#### SUBTITLE E—MISCELLANEOUS

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

Section 1501 repeals section 105 of title 23. Because ATIA authorizes funding for Federal-aid highway and highway safety programs for fiscal years 2021 through 2025, 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 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 2021 through 2025.

##### *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. Forest service legacy roads and trails remediation program*

Section 1504 amends the Forest Roads and Trails Act by requiring the Secretary of Agriculture, acting through the Chief of the Forest Service, to develop a national strategy to perform critical maintenance and urgent repairs and improvements on National Forest System's roads, trails, and bridges to primarily improve public safety, water quality, wildlife habitats, grazing, fish habitats, and recreational access. The national strategy should focus on meeting Forest Service road systems' needs that Forest Service's current Capital Improvement and Maintenance Program does not adequately meet. This section authorizes the program for appropriations from the General Fund at \$50,000,000 per year for each of fiscal years 2021 through 2025.

*Sec. 1505. Disaster relief mobilization pilot program*

Section 1505 provides grants on a pilot basis to local communities to develop disaster preparedness and disaster response plans that include the use of bicycles. The section requires grants to be used for vulnerability assessments of infrastructure that supports active transportation, modifications of disaster preparedness and response plans to include the use of bicycles by first responders, and related preparedness training, exercises and equipment. The section requires a report not later than three years from the date of enactment on the effectiveness of the program and policy recommendations.

*Sec. 1506. Appalachian regional development*

Section 1506 reauthorizes the Appalachian Regional Commission (ARC) at \$180,000,000 for each of fiscal years 2021 through 2025 including \$5,000,000 per year for an Appalachian Regional Energy Hub to fund development projects and other activities related to ethane storage as well as natural gas and natural gas liquids storage and transport. This section also modifies certain requirements relating to the planning processes, decisions, and meetings of the ARC. This section adds Catawba and Cleveland counties (in North Carolina) as part of the Appalachian region for purposes of the ARC.

*Sec. 1507. Requirements for transportation projects carried out through public-private partnerships*

Section 1507 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. 1508. Community connectivity pilot program*

Section 1508 establishes a community connectivity pilot program through which eligible entities may apply for planning funds to study the feasibility and impacts of removing transportation facilities that create barriers to mobility, access, or economic development, and for construction funds to carry out a project to remove an eligible facility and, if appropriate, to replace it with a new facility.

Subsection (a) contains the definition of an eligible facility, which 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.

Subsection (b) establishes the pilot program.

Subsection (c) allows the Secretary to award planning grants and provide technical assistance to eligible entities. Eligible activities for planning grants include: planning studies to evaluate the feasibility of removing an eligible facility; public engagement activities to provide opportunities for public input into a plan to remove and convert an eligible facility; and other transportation planning activities required in advance of a project to remove an existing eligible facility. Planning grant awards may not exceed \$2,000,000, and the Federal cost-share for a project may not exceed 80 percent.

Subsection (d) 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.

Subsection (e) requires the Secretary to report on the program, as well as a separate report from the Comptroller General.

Subsection (f) clarifies that the Secretary may not use more than \$15,000,000 during the period of fiscal years 2021 through 2025 to provide technical assistance under subsection (c).

*Sec. 1509. Repeal of rescission*

Section 1509 repeals the \$7,569,000,000 rescission of Federal-aid Highway Program contract authority contained within Section 1438 of the FAST Act.

*Sec. 1510. Federal interagency working group for conversion of Federal fleet to hybrid-electric vehicles, electric vehicles, and alternative fueled vehicles*

Section 1510 requires the Chair of the Council on Environmental Quality to lead a Federal interagency working group to develop a strategy to transition the vehicle fleets of the respective Federal agencies to hybrid-electric vehicles, plug-in electric drive vehicles, and alternative fueled vehicles, to the maximum extent practicable. This section establishes goals for the interagency working group and requires it to submit an annual report to Congress.

*Sec. 1511. Cybersecurity tool; cyber coordinator*

Section 1511 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. 1512. Study on most effective upgrades to roadway infrastructure*

Section 1512 directs the Secretary to enter into an agreement with the Transportation Research Board (TRB) to identify specific immediate and long-term types of upgrades necessary to benefit the largest segment of road users, autonomous vehicles, and automated driving system, as well as to examine how to best achieve roadway infrastructure uniformity to facilitate the safe deployment of autonomous vehicles and automated driving systems. This section requires the Secretary to provide an opportunity for public comment on the study proposal prior to entering into an agreement with TRB. This section requires the Secretary to submit the study to Congress not later than two years after the enactment of this Act.

*Sec. 1513. Study on vehicle-to-infrastructure communication technology*

Section 1513 directs the Secretary to enter into an agreement with the TRB to identify immediate and long-term safety benefits of vehicle-to-infrastructure connectivity technologies and technologies that would allow motor vehicles and roadway infrastructure to communicate using dedicated short-range communications and related safety applications. This section requires the Secretary to provide an opportunity for public comment on the study proposal prior to entering into an agreement with TRB. This section requires the Secretary to submit the study to Congress not later than two years after the enactment of this Act.

*Sec. 1514. Non-highway recreational fuel study*

Section 1514 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 assist Congress in determining an appropriate funding level for the recreational trails program.

*Sec. 1515. Buy America*

Section 1515 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. 1516. Report on data-driven infrastructure traffic safety improvements*

Section 1516 requires the FHWA to conduct a study to identify data-driven infrastructure traffic safety improvements for priority focus areas, including improvements that would benefit older drivers, teenage drivers, commercial drivers, and vulnerable road users, and to issue a report to Congress containing study results and recommendations.

*Sec. 1517. High priority corridors on the National Highway System*

Section 1517 amends section 1105 of the Intermodal Surface Transportation Efficiency Act by adding new future Interstate designations along corridors in North Carolina, Kentucky, 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. 1518. Interstate weight limits*

Section 1518 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 any such corridors become designated as a route on the Interstate System.

*Sec. 1519. Interstate exemption*

Section 1519 allows any commercial establishment operating legally in a rest area along a specific segment of highway in Kentucky to continue to operate in the Interstate right-of-way (subject to the Interstate access standards established under section 111 of title 23) should the segment be designated as a route on the Interstate System.

*Sec. 1520. Report on air quality improvements*

Section 1520 requires the Comptroller General 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 conges-

tion 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. 1521. Roadside highway safety hardware*

Section 1521 requires the Secretary 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. 1522. Permeable pavements study*

Section 1522 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 to State and local governments.

*Sec. 1523. Emergency relief projects*

Section 1523 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. 1524. Certain gathering lines located on Federal land and Indian land*

Section 1524 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. The purpose of this categorical exclusion is to reduce methane and other emissions through the use of adequate gathering line infrastructure.

*Sec. 1525. Sense of Senate relating to offsets*

Section 1525 states the sense of the Senate that the Highway Trust Fund shall achieve long-term solvency through user fees, and the intent to fully offset any spending beyond current Highway

Trust Funds revenues and balances during the reauthorization period.

*Sec. 1526. Study on stormwater best management practices*

Section 1526 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. 1527. Stormwater best management practices reports*

Section 1527 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. 1528. Invasive plant elimination program*

Section 1528 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 2021 through 2025.

*Sec. 1529. Over-the-road bus tolling equity*

Section 1411 of the FAST Act amended title 23 to require that over-the-road busses that serve the public be provided access to certain toll facilities under the same rates, terms, and conditions as public transportation buses. Section 1529 amends title 23 further 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. 1530. Bridge terminology*

Section 1530 modernizes bridge terminology used in title 23.

*Sec. 1531. Technical corrections*

Section 1531 makes technical corrections to title 23 of the United States Code.

*Sec. 1532. Study of impacts on roads from self-driving vehicles*

Section 1532 directs the Administrator of FHWA 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, transportation systems optimization, and any other areas or issues relevant to operations of FHWA that the Administrator determines to be appropriate. In carrying out the study, the Administrator is required to consider and incorporate relevant current and ongoing research of the Department and is required to convene and consult with national experts in both rural and urban transportation, subject to certain requirements.

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 establishes a definition for the term “administratively allocated” in reference to funding allocated by the Secretary for projects that have advanced into either the credit worthiness phase or are subject to a master credit agreement. This section extends the period during which contingent commitments under a master credit agreement must result in a financial close from 3 years to 5 years. This section 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 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 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 bor-

rowers 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 2025. This section increases overall transparency in the TIFIA process by requiring DOT to publish status reports online.

Section 2001 extends the authorization of State Infrastructure Bank program through fiscal year 2025.

#### TITLE III—RESEARCH TECHNOLOGY AND EDUCATION

##### *Sec. 3001. Surface transportation system funding alternatives*

Section 3001 reauthorizes the Surface Transportation System Funding Alternatives program established under the FAST Act to research the feasibility of a road usage fee or other user-based alternative revenue mechanisms that preserve a user fee structure to maintain the long-term solvency of the Highway Trust Fund. This section builds upon the State pilot programs authorized in the FAST Act and strengthens the program objectives to ensure projects test solutions for the collection, privacy, and security of data for the purposes of implementing a user-based alternative revenue mechanism. This section establishes a new national research program to include voluntary participation by drivers or owners of commercial vehicles. This section establishes a Federal System Funding Alternative Advisory Board to assist with advancing research under the program and developing recommendations. The board consists of a broad cross section of interested stakeholders including State and local transportation agencies, owners and operators of toll facilities, and fleet operators. This section requires the Secretary to report to Congress on the results of State pilot projects and the national research program, and to provide recommendations on implementation. For each of fiscal years 2021 through 2025, this section sets aside from funds made available for FHWA research programs, \$15,000,000 for State pilot projects and \$10,000,000 for the national research program. This section provides that excess funds from the State pilots may be used for the national research program and vice versa.

##### *Sec. 3002. Performance management data support program*

Section 3002 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. 3003. Data integration pilot program*

Section 3003 authorizes for appropriation from the General Fund, \$2,500,000 for each of fiscal years 2021 through 2025 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 vulner-

ability threats, by providing tools to help public safety officials and end users make important transportation decisions.

*Sec. 3004. Emerging technology research pilot program*

Section 3004 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 2021 through 2025 to support the pilot program.

*Sec. 3005. Research and technology development and deployment*

Section 3005 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 authorizes a new Center of Excellence on New Mobility and Automated Vehicles to research the impact of automated vehicles and new mobility, such as docked and dockless bicycles and electric scooters.

*Sec. 3006. Workforce development, training, and education*

Section 3006 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. 3007. Wildlife-vehicle collision research*

Section 3007 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.

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 3 percent set-aside for the Tribal Transportation Facility Bridges program and specifies funding eligibilities for the same program.

*Sec. 4005. Bureau of Indian Affairs (BIA) road maintenance program*

Section 4005 authorizes \$50,000,000 for the Road Maintenance Program for fiscal year 2021, with increases of \$2,000,000 per year through fiscal year 2025.

*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. The Committee recommends that the Assistant Secretary for Tribal Government Affairs shall oversee the Tribal Transportation Self Governance Program under 23 U.S.C. 207. In addition, the Assistant Secretary shall administer all departmental, modal, and multimodal tribal governmental relations.

#### LEGISLATIVE HISTORY

On July 29, 2019, Senator Barrasso, chairman of the Committee on Environment and Public Works, introduced S. 2302, America's Transportation Infrastructure Act of 2019. Senators Carper, Capito, and Cardin were original cosponsors of the legislation. The bill was referred to the Committee on Environment and Public Works.

On July 30, 2019, the Committee on Environment and Public Works conducted a business meeting to consider S. 2302. The Committee ordered S. 2302 to be favorably reported with an amendment in the nature of a substitute by a unanimous roll call vote of 21 to 0.

#### HEARINGS

Since the passage of the FAST Act in 2015, the Committee on Environment and Public Works has held 12 hearings to conduct oversight on the implementation of the FAST Act and hear from stakeholders what priorities should be addressed in the reauthorization of the FAST Act.

- 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.”

#### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 2302 on July 30, 2019. The bill, with an amendment in the nature of a substitute, was ordered to be favorably reported by a roll call vote of 21 to 0.

#### *Amendments approved*

The following amendments to the amendment in the nature of a substitute to S. 2302 were approved en bloc by voice vote:

Carper #1—An amendment to reinstate set-aside categories for competitive grants under the PROTECT grant program that were inadvertently removed due to a clerical error (approved by voice vote).

Inhofe-Boozman #1—An amendment to expand eligibility for grants under the INFRA grant program to include marine highway corridor projects that are connected to the National Highway Freight Network and likely to reduce on-road mobile source emissions (approved by voice vote).

Revised Duckworth #2—An amendment to require the Federal Highway Administration to conduct a study of impacts on roads from self-driving vehicles, including those relating to traffic, congestion, and the environment (approved by voice vote).

Revised Merkley #3—An amendment to clarify for purposes of the invasive plant elimination program that wildflowers used in state revegetation and replanting projects should be a variety that benefits pollinators (approved by voice vote).

Revised Van Hollen #3—An amendment to modify provisions relating to funding for surface transportation system funding alternatives that allows for excess funds remaining after carrying out a national pilot program to be available to make grants for state pilot programs (approved by voice vote).

#### *Final committee vote to report*

An amendment in the nature of a substitute, as amended by Carper #1, Inhofe-Boozman #1, Revised Duckworth #2, Revised Merkley #3, and Revised Van Hollen #3, was approved, and S. 2302, with the amendment in the nature of a substitute, was ordered to be favorably reported by a roll call vote of 21 to 0 (Senators Booker, Boozman, Braun, Capito, Cardin, Carper, Cramer, Duckworth, Ernst, Gillibrand, Inhofe, Markey, Merkley, Rounds,

Sanders, Shelby, Sullivan, Van Hollen, Whitehouse, Wicker, and Barrasso voted aye).

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works finds that S. 2302 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

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. 2302 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. That statement follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 12, 2019.*

Hon. JOHN BARRASSO,  
*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. 2302, the America's Transportation Infrastructure Act of 2019.

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. 2302, America's Transportation Infrastructure Act of 2019</b>   |               |                                     |                  |
| As reported by the Senate Committee on Environment and Public Works on August 1, 2019   |               |                                     |                  |
| <b>By Fiscal Year, Millions of Dollars</b>  | <b>2020</b>   | <b>2020-2024</b>                    | <b>2020-2029</b> |
| <b>Direct Spending (Outlays)</b>  | <b>0</b>      | <b>705</b>                          | <b>815</b>       |
| <b>Revenues<sup>a</sup></b>   | <b>0</b>      | <b>-18</b>                          | <b>-168</b>      |
| <b>Increase or Decrease (-) in the Deficit</b>  | <b>0</b>      | <b>723</b>                          | <b>983</b>       |
| <b>Spending Subject to Appropriation (Outlays)</b>  | <b>31</b>     | <b>147,485</b>                      | <b>273,924</b>   |
| 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 2030?  | < \$5 billion | Contains intergovernmental mandate? | No               |
|   |               | Contains private-sector mandate?    | No               |
| a. Estimate provided by the staff of the Joint Committee on Taxation.   |               |                                     |                  |
| <b>The bill would</b>   |               |                                     |                  |
| <ul style="list-style-type: none"> <li>• Provide \$287 billion in contract authority for the Federal-Aid Highway Program over the 2021-2025 period</li> <li>• Cancel an \$8 billion rescission in the Federal-Aid Highway Program currently scheduled for 2020</li> <li>• Authorize \$284 billion in obligation limitations for the Federal-Aid Highway Program over the 2021-2025 period</li> <li>• Authorize appropriations for other transportation-related projects and activities</li> </ul> |               |                                     |                  |
| <b>Estimated budgetary effects would primarily 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 Federal-Aid Highway 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 number of states that would exchange federal funding for one transportation program to participate in another, and estimating the amounts of funding those exchanges would involve</li> </ul>   |               |                                     |                  |
| <b>Detailed estimate begins on the next page.</b>   |               |                                     |                  |

Bill summary: S. 2302 would provide budget authority for the Department of Transportation (DOT) to continue operating the Federal-Aid Highway Program, which is funded from the Highway Trust Fund, over the 2021–2025 period. The bill also would authorize the appropriation of funds for certain other transportation programs administered by DOT, the Environmental Protection Agency, the Department of the Interior, the Forest Service, and other agencies.

Estimated Federal cost: The estimated budgetary effect of S. 2302 is shown in Table 1. The costs of the legislation fall within budget functions 300 (natural resources and environment), 400 (transportation), and 450 (community and regional development).

Basis of estimate: For this estimate, CBO assumes that S. 2302 will be enacted near the end of 2019 and that the authorized amounts will be provided for each year beginning in fiscal year 2020. 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 are almost entirely focused on highway construction, and 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 multi-year authorizations but most outlays of that contract authority have been controlled by obligation limitations provided in annual appropriations and have therefore been classified as discretionary.<sup>1</sup> Some outlays of that contract authority have been specifically exempt from obligation limitations and are therefore classified as mandatory.

Following the rules in the Balanced Budget and Emergency Deficit Control Act of 1985 for constructing the baseline, CBO's baseline incorporates the assumption that the amount of contract authority provided in the last year of the Federal-Aid Highway Program's authorization continues in each subsequent year. Therefore, CBO's estimates for authorizing legislation containing contract authority as well as the outlays from contract authority that is 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. 2302

|   | By fiscal year, millions of dollars— |        |        |        |        |        |        |        |        |        |           |           |  |
|---|--------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-----------|-----------|--|
|   | 2020                                 | 2021   | 2022   | 2023   | 2024   | 2025   | 2026   | 2027   | 2028   | 2029   | 2020–2024 | 2020–2029 |  |
| <b>INCREASES IN DIRECT SPENDING</b>   |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Contract Authority Subject to Obligation Limitations <sup>a</sup> :             |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Estimated Contract Authority <sup>b</sup> .....                                 | 7,569                                | 15,591 | 16,686 | 17,869 | 19,133 | 20,307 | 20,307 | 20,307 | 20,307 | 20,307 | 76,848    | 178,383   |  |
| Estimated Outlays .....   | 0                                    | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0         | 0         |  |
| Balance Exchanges:  |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Contract Authority .....  | 0                                    | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0         | 0         |  |
| Estimated Outlays .....   | 0                                    | 140    | 270    | 195    | 100    | 50     | 40     | 20     | 0      | 0      | 705       | 815       |  |
| Total Changes:  |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Estimated Contract Authority .....  | 7,569                                | 15,591 | 16,686 | 17,869 | 19,133 | 20,307 | 20,307 | 20,307 | 20,307 | 20,307 | 76,848    | 178,383   |  |
| Estimated Outlays .....   | 0                                    | 140    | 270    | 195    | 100    | 50     | 40     | 20     | 0      | 0      | 705       | 815       |  |
| Estimated Revenues .....  | 0                                    | *      | -2     | -5     | -11    | -18    | -26    | -32    | -36    | -38    | -18       | -168      |  |
| Estimated Effect on the Deficit .....   | 0                                    | 140    | 272    | 200    | 111    | 68     | 66     | 52     | 36     | 38     | 723       | 983       |  |
| <b>NET INCREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES</b> |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| <b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>                           |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Obligation Limitations for the Federal-Aid Highway Program:                     |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Obligation Limitations <sup>c</sup> .....                                       | 0                                    | 54,388 | 55,483 | 56,666 | 57,930 | 59,104 | 0      | 0      | 0      | 0      | 224,467   | 283,571   |  |
| Estimated Outlays .....   | 0                                    | 13,597 | 36,170 | 45,073 | 48,758 | 51,977 | 39,606 | 16,781 | 8,626  | 6,334  | 143,598   | 266,922   |  |
| Other Authorized Programs:  |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Estimated Authorization .....   | 197                                  | 1,384  | 1,427  | 1,434  | 1,461  | 1,382  | 1      | 1      | 1      | 1      | 5,903     | 7,289     |  |
| Estimated Outlays .....   | 31                                   | 425    | 951    | 1,185  | 1,292  | 1,345  | 957    | 442    | 227    | 142    | 3,885     | 6,998     |  |
| Total Changes:  |                                      |        |        |        |        |        |        |        |        |        |           |           |  |
| Estimated Budgetary Resources .....   | 197                                  | 55,772 | 56,910 | 58,100 | 59,391 | 60,486 | 1      | 1      | 1      | 1      | 230,370   | 290,860   |  |
| Estimated Outlays .....   | 31                                   | 14,025 | 37,121 | 46,258 | 50,051 | 53,322 | 40,563 | 17,223 | 8,854  | 6,476  | 147,485   | 273,924   |  |

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.  
 Components may not sum to totals because of rounding. \* = Between -\$500,000 and zero.  
<sup>a</sup>The Congress and the Administration agree that the Federal-Aid Highway Program has a unique budgetary treatment. Authorizing laws provide the program with contract authority (the authority 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.) A portion of the program's contract authority is exempt from those limitations (both under current law and under S. 2302) and therefore results in mandatory outlays.

<sup>b</sup>Consistent with rules in the Balanced Budget and Emergency Deficit Control Act of 1985, CBO assumes that the mandatory budget authority provided in 2025, 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. 2302 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 2025.

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 included in proposed legislation.

*Direct spending*

Relative to the amounts projected in its baseline, CBO estimates that enacting S. 2302 would increase mandatory budget authority by \$178 billion and mandatory outlays by \$0.8 billion over the 2020–2029 period.

Contract Authority Subject to Obligation Limitations. S. 2302 would provide contract authority for the Federal-Aid Highway Program over the 2020–2025 period. The change in contract authority under S. 2302 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 Fixing America’s Surface Transportation (FAST) Act, the most recent authorization for surface transportation, expires at the end of 2020. Consistent with requirements in the Deficit Control Act, CBO’s baseline projections include the assumption that the amount of contract authority in 2020 continues at the same level in each subsequent year, including a scheduled \$8 billion rescission of contract authority in 2020. (A rescission is a withdrawal of unexpired authority to incur financial obligations that was provided previously in law.) Accordingly, CBO’s May 2019 baseline projects that net contract authority over the 2020–2029 period would total \$395 billion; \$388 billion of that amount is subject to obligation limitations.

S. 2302 would cancel the \$8 billion rescission scheduled to occur in 2020. Thus, CBO estimates that relative to the baseline, contract authority for the Federal-Aid Highway Program would increase by about \$76 billion over the 2020–2029 period.

In addition, S. 2302 would provide \$284 billion in contract authority that is subject to obligation limitations for the Federal-Aid Highway Program over the 2021–2025 period. Consistent with the Deficit Control Act, CBO estimates that the mandatory budget authority of nearly \$60 billion that would be provided in 2025 (the final year of its authorization) under S. 2302 would continue indefinitely.

CBO estimates that the amounts that would be provided by the bill for contract authority subject to obligation limitations over the 2020–2029 period is \$178 billion more than projected in CBO’s baseline. (Because the contract authority provided in the bill that is exempt from obligation limitations would be equal to the amount projected in CBO’s baseline over the 2020–2029 period, there would be no cost relative to that baseline.)

TABLE 2.—CONTRACT AUTHORITY SUBJECT TO OBLIGATION LIMITATIONS FOR THE FEDERAL-AID HIGHWAY PROGRAM PROVIDED BY S. 2302 RELATIVE TO CBO'S BASELINE

|  | By fiscal year, millions of dollars— |        |        |        |        |        |        |        |        |        |           |           |           |
|--|--------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-----------|-----------|-----------|
|  | 2020                                 | 2021   | 2022   | 2023   | 2024   | 2025   | 2026   | 2027   | 2028   | 2029   | 2020–2024 | 2021–2025 | 2020–2029 |
| CONTRACT AUTHORITY IN CBO'S BASELINE <sup>a</sup>  |                                      |        |        |        |        |        |        |        |        |        |           |           |           |
| Contract Authority Under the Fast Act .....        | 46,366                               | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 46,366    | 46,366    | 46,366    |
| Rescission Under the FAST Act .....                | -7,569                               | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | -7,569    | -7,569    | -7,569    |
| Contract Authority Assumed in CBO's Baseline ..... | 0                                    | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 155,188   | 155,188   | 349,173   |
| Total Contract Authority .....                     | 38,797                               | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 38,797 | 193,985   | 193,985   | 387,970   |
| CONTRACT AUTHORITY UNDER S. 2302                   |                                      |        |        |        |        |        |        |        |        |        |           |           |           |
| Contract Authority .....                           | 46,366                               | 54,388 | 55,483 | 56,666 | 57,930 | 59,104 | 0      | 0      | 0      | 0      | 270,833   | 283,571   | 329,937   |
| Contract Authority Assumed to Continue .....       | 0                                    | 0      | 0      | 0      | 0      | 0      | 59,104 | 59,104 | 59,104 | 59,104 | 0         | 0         | 236,416   |
| Total Contract Authority .....                     | 46,366                               | 54,388 | 55,483 | 56,666 | 57,930 | 59,104 | 59,104 | 59,104 | 59,104 | 59,104 | 270,833   | 283,571   | 566,353   |
| Increase in Contract Authority <sup>b</sup> .....  | 7,569                                | 15,591 | 16,686 | 17,869 | 19,133 | 20,307 | 20,307 | 20,307 | 20,307 | 20,307 | 76,848    | 89,586    | 178,383   |

Components may not sum to totals because of rounding; FAST Act = Fixing America's Surface Transportation Act. The bill also would authorize about \$3 billion in contract authority exempt from obligation limitations over the 2021–2025 period. Those amounts are equal to amounts assumed in CBO's baseline over that period.  
<sup>a</sup>Following the 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 last year of the Federal-Aid Highway Program's authorization continues in each subsequent year. Under the FAST Act, the current surface transportation authorization, contract authority is provided for the Federal-Aid Highway Program through 2020. S. 2302 would provide that authority through 2025.  
<sup>b</sup>This line is the same as the line "Contract Authority Subject to Obligation Limitations" in Table 1.

Balance Exchanges. Until 2014, the federal government provided contract authority to the 13 Appalachian states to fund the Appalachian Development Highway System (ADHS). Most of those states still have balances for those purposes.

Section 1123 would create the Balance Exchanges for Infrastructure program. Under the program, Appalachian states that do not plan to use all of their remaining balances of ADHS contract authority could exchange their balances in return for an equal amount of contract authority that could be used for a wider range of transportation projects. The funding would come from unobligated balances within DOT's Transportation Infrastructure Finance and Innovation Act (TIFIA) program. States that chose not to return their balances could apply for grants (funded from ADHS balances returned by other states) to fund ADHS-related projects.

Given the amount of unobligated balances remaining in the ADHS and TIFIA programs and the likelihood of a state's participation in the Balance Exchanges program, CBO estimates that six of the 13 states with large ADHS balances would choose to return a total of about \$450 million in contract authority in exchange for an equal amount of funding from the TIFIA program. Two other states would probably apply for and receive a total of about \$375 million from the returned ADHS balances.

CBO estimates that in total enacting this provision would increase outlays—by \$815 million—from contract authority provided in previous authorization acts that would not otherwise have been spent over the 2020–2029 period.

#### *Revenues*

S. 2302 would reauthorize the State Infrastructure Bank program through 2025. States use infrastructure banks to finance transportation projects by lending money to local governments or by repaying bonds.

As under current law, S. 2302 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. 2302 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 \$168 million over the 2020–2029 period.

#### *Spending subject to appropriation*

Assuming appropriation of the specified and necessary amounts, CBO estimates that implementing S. 2302 would cost \$274 billion over the 2020–2029 period (see Table 3). That amount includes spending from the Highway Trust Fund as well as spending on programs operated by DOT or 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 practice would continue under the provisions of S. 2302. The bill would authorize obligation limitations totaling \$284 billion over the 2020–2029 period.

CBO estimates that obligating amounts equal to those limitations would result in outlays of \$267 billion over the 2020–2029 period.

TABLE 3.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 2302

|  | By fiscal year, millions of dollars— |        |        |        |        |        |        |        |       |       |           |           |
|--|--------------------------------------|--------|--------|--------|--------|--------|--------|--------|-------|-------|-----------|-----------|
|  | 2020                                 | 2021   | 2022   | 2023   | 2024   | 2025   | 2026   | 2027   | 2028  | 2029  | 2020–2024 | 2020–2029 |
| <b>Obligation Limitations for the Federal-Aid Highway Program:</b> |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Obligation Limitation .....  | 0                                    | 54,388 | 55,483 | 56,666 | 57,930 | 59,104 | 0      | 0      | 0     | 0     | 224,467   | 283,571   |
| Estimated Outlays .....  | 0                                    | 13,597 | 36,170 | 45,073 | 48,788 | 51,977 | 39,606 | 16,781 | 8,626 | 6,334 | 143,598   | 266,922   |
| <b>Bridge Investment Program:</b>                                  |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 600    | 640    | 650    | 675    | 700    | 0      | 0      | 0     | 0     | 2,565     | 3,265     |
| Estimated Outlays .....  | 0                                    | 150    | 406    | 515    | 561    | 605    | 464    | 196    | 100   | 74    | 1,632     | 3,071     |
| <b>Tribal Transportation:</b>                                      |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 380    | 382    | 384    | 386    | 388    | 0      | 0      | 0     | 0     | 1,532     | 1,920     |
| Estimated Outlays .....  | 0                                    | 117    | 269    | 322    | 342    | 357    | 245    | 97     | 50    | 35    | 1,050     | 1,834     |
| <b>Appalachian Regional Commission:</b>                            |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 180    | 180    | 180    | 180    | 180    | 0      | 0      | 0     | 0     | 720       | 900       |
| Estimated Outlays .....  | 0                                    | 20     | 67     | 115    | 148    | 171    | 160    | 113    | 65    | 32    | 350       | 891       |
| <b>Diesel Emissions Reduction:</b>                                 |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 100                                  | 100    | 100    | 100    | 100    | 0      | 0      | 0      | 0     | 0     | 500       | 500       |
| Estimated Outlays .....  | 25                                   | 85     | 100    | 100    | 100    | 75     | 15     | 0      | 0     | 0     | 410       | 500       |
| <b>Emissions Capture and Utilization:</b>                          |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Estimated Authorization .....                                      | 87                                   | 1      | 2      | 2      | 2      | 1      | 1      | 1      | 1     | 1     | 94        | 99        |
| Estimated Outlays .....  | 3                                    | 3      | 20     | 22     | 23     | 20     | 3      | 2      | 2     | 1     | 71        | 99        |
| <b>Legacy Roads and Trails Remediation:</b>                        |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 50     | 50     | 50     | 50     | 50     | 0      | 0      | 0     | 0     | 200       | 250       |
| Estimated Outlays .....  | 0                                    | 34     | 45     | 50     | 50     | 50     | 16     | 5      | 0     | 0     | 179       | 250       |
| <b>Invasive Plant Elimination:</b>                                 |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 50     | 50     | 50     | 50     | 50     | 0      | 0      | 0     | 0     | 200       | 250       |
| Estimated Outlays .....  | 0                                    | 5      | 25     | 40     | 50     | 50     | 45     | 25     | 10    | 0     | 120       | 250       |
| <b>Pilot Programs:</b>   |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Authorization .....  | 0                                    | 13     | 13     | 13     | 13     | 13     | 0      | 0      | 0     | 0     | 52        | 65        |
| Estimated Outlays .....  | 0                                    | 5      | 9      | 12     | 13     | 13     | 8      | 4      | 1     | 0     | 39        | 65        |
| <b>Alaska Highway:</b>   |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Estimated Authorization .....                                      | 10                                   | 10     | 10     | 5      | 5      | 0      | 0      | 0      | 0     | 0     | 40        | 40        |
| Estimated Outlays .....  | 3                                    | 7      | 10     | 9      | 6      | 4      | 1      | 0      | 0     | 0     | 35        | 40        |
| <b>Total Changes:</b>  |                                      |        |        |        |        |        |        |        |       |       |           |           |
| Estimated Budgetary Resources .....                                | 197                                  | 55,772 | 56,910 | 58,100 | 59,391 | 60,486 | 1      | 1      | 1     | 1     | 230,370   | 290,860   |
| Estimated Outlays .....  | 31                                   | 14,025 | 37,121 | 46,258 | 50,051 | 53,322 | 40,563 | 17,223 | 8,854 | 6,476 | 147,485   | 273,924   |

Components may not sum to totals because of rounding.

Bridge Investment Program. In addition to contract authority provided from the Highway Trust Fund, section 1101 would authorize the appropriation of about \$3.3 billion for DOT to implement the proposed Bridge Investment Program. CBO estimates that implementing this provision would cost \$3.1 billion over the 2020–2029 period.

Tribal Transportation. Over the 2021–2025 period, section 1101 also would authorize the appropriation of \$300 million annually for the Nationally Significant Federal Lands and Tribal Projects Program, section 1130 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 \$1.8 billion over the 2020–2029 period.

Appalachian Regional Commission. Section 1506 would authorize the appropriation of \$180 million a year over the 2021–2025 period for the Appalachian Regional Commission. CBO estimates that implementing the provision would cost \$891 million over the 2020–2029 period.

Diesel Emissions Reduction. Section 1408 would authorize the appropriation of \$100 million annually over the 2020–2024 period for the Environmental Protection Agency to provide grants and rebates for projects and state programs that reduce emissions from diesel engines. In 2019, \$87 million was appropriated for those purposes. CBO estimates that implementing section 1408 would cost \$500 million over the 2020–2029 period.

Emissions Capture and Utilization. Section 1406 would authorize the appropriation of \$85 million for the Environmental Protection Agency to support research and development on advanced technologies to capture carbon dioxide (CO<sub>2</sub>) from the atmosphere for permanent storage or for use in commercial products or processes. CBO estimates that implementing this provision would cost \$85 million over the 2020–2029 period.

Section 1406 aims to expedite the review and permitting for infrastructure projects to capture or transport CO<sub>2</sub>. The Council on Environmental Quality would be required to support the expansion of CO<sub>2</sub> storage projects and infrastructure by issuing new guidance and reports and by establishing new task forces. CBO estimates that implementing those provisions would cost \$14 million over the 2020–2029 period.

Legacy Roads and Trails Remediation. Section 1504 would authorize the appropriation of \$50 million annually over the 2021–2025 period for the Forest Service to provide critical maintenance, urgent repairs, and improvements to National Forest System roads, trails, and bridges. CBO estimates that implementing this section would cost \$250 million over the 2020–2029 period.

Invasive Plant Elimination. Section 1528 would authorize the appropriation of \$50 million annually over the 2021–2025 period for DOT to provide grants to states to eliminate or control invasive plants in areas adjacent to highways, railroads, or other surface

transportation routes. CBO estimates the implementing the section would cost \$250 million over the 2020–2029 period.

**Pilot Programs.** S. 2302 would authorize appropriations for three pilot programs over the 2021–2025 period. Section 1502 would authorize the appropriation of \$5 million annually for construction grants to local governments for infrastructure designed to increase pedestrian safety near roadways, section 3004 would authorize the appropriation of \$5 million annually for DOT to implement a program to research emerging transportation technologies, and section 3003 would authorize the appropriation of \$2.5 million annually for DOT to better integrate data from DOT, the National Weather Service, and other sources to provide real-time information on roadway conditions during severe weather events. CBO estimates that implementing those provisions would cost \$65 million over the 2020–2029 period.

**Alaska Highway.** Section 1117 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 to fund that infrastructure.

CBO expects that Alaska would apply for discretionary grants to supplement funding from the Federal-Aid Highway Program to complete the current restoration initiative. Using information from the federal Department of Transportation and the State of Alaska, CBO estimates that implementing the section would cost \$40 million over the 2020–2029 period.

*Status of the Highway Trust Fund under S. 2302*

In its May 2019 baseline, CBO projected a cumulative shortfall of \$53 billion in the highway account of the Highway Trust Fund at the end of 2025.<sup>2</sup> That is the amount by which revenues credited to the fund are projected to fall short of outlays, given the authorized and projected spending authority.

The obligation limitations authorized in S. 2302 for the Federal-Aid Highway Program exceed those in CBO’s May 2019 baseline by about \$38 billion.

As a result, CBO estimates that the cumulative shortfall at the end of 2025 in the highway account of the Highway Trust Fund under S. 2302 would be about \$80 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. 2302 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. 2302

|  | By fiscal year, millions of dollars— |        |        |        |        |        |           |
|--|--------------------------------------|--------|--------|--------|--------|--------|-----------|
|  | 2020                                 | 2021   | 2022   | 2023   | 2024   | 2025   | 2020–2025 |
| Start-of-Year Balance .....              | 23,542                               | 13,518 | 303    | a      | a      | a      | a         |
| Revenues and Interest <sup>b</sup> ..... | 37,739                               | 37,282 | 36,955 | 36,762 | 36,650 | 36,560 | 221,949   |
| Outlays .....                            | 46,763                               | 49,498 | 53,357 | 55,391 | 56,560 | 57,941 | 319,510   |
| End-of-Year Balance <sup>c</sup> .....   | 13,518                               | 303    | a      | a      | a      | a      |           |

<sup>2</sup>See Congressional Budget Office, Details About Baseline Projections for Selected Programs, “Highway Trust Fund Accounts—May 2019 Baseline,” (May 20, 2019), <https://go.usa.gov/xVAAT>.

TABLE 4.—ESTIMATED SPENDING FROM THE HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND UNDER S. 2302—Continued

|                        | By fiscal year, millions of dollars— |      |         |         |         |         |           |
|------------------------|--------------------------------------|------|---------|---------|---------|---------|-----------|
|                        | 2020                                 | 2021 | 2022    | 2023    | 2024    | 2025    | 2020–2025 |
| Memorandum:            |                                      |      |         |         |         |         |           |
| Shortfall <sup>a</sup> | n.a.                                 | n.a. | -17,099 | -19,629 | -20,910 | -22,381 | -80,019   |

Components may not sum to totals because of rounding; n.a. = not applicable.  
 Outlays, revenues, and interest projections are relative to CBO's May 2019 baseline.  
<sup>a</sup>Under current law, the Highway Trust Fund cannot incur negative balances. However, following the 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, assuming spending amounts consistent with CBO's estimate for S. 2302 for the Federal-Aid Highway Program and CBO's May 2019 baseline for the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration programs that are part of the Highway Account of the Highway Trust Fund.  
<sup>b</sup>Some of the taxes that are credited to the Highway Trust Fund are scheduled to expire on September 30, 2022, including the taxes on tires and all but 4.3 cents of the federal tax on motor fuels. However, under the rules in the Deficit Control Act for constructing the baseline, this estimate incorporates the assumption that all of the expiring taxes credited to the fund will continue to be collected after fiscal year 2022.  
<sup>c</sup>End-of-year balances reflect amounts transferred from the trust fund's highway account to its transit account—in 2018, \$1.6 billion. CBO estimates that those transfers will equal \$1 billion annually over the 2020–2025 period.

*Uncertainty*

CBO's estimate of the number of states that would participate in the proposed Balance Exchange for Infrastructure program and the amounts those states would choose to exchange is uncertain. The cost of the provision could differ from CBO's estimate if the number of states was higher or lower than CBO estimates, or if the amount of funds that participating states exchanged were greater or less 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. 2302, AS REPORTED BY THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS ON AUGUST 1, 2019

|                       | By fiscal year, millions of dollars— |      |      |      |      |      |      |      |      |      |           |           |  |
|-----------------------|--------------------------------------|------|------|------|------|------|------|------|------|------|-----------|-----------|--|
|                       | 2020                                 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2020–2024 | 2020–2029 |  |
|                       | Net Increase In The Deficit          |      |      |      |      |      |      |      |      |      |           |           |  |
| Pay-As-You-Go Effects | 0                                    | 140  | 272  | 200  | 111  | 68   | 66   | 52   | 36   | 38   | 723       | 983       |  |
| Memorandum:           |                                      |      |      |      |      |      |      |      |      |      |           |           |  |
| Changes in Outlays    | 0                                    | 140  | 270  | 195  | 100  | 50   | 40   | 20   | 0    | 0    | 705       | 815       |  |
| Changes in Revenues   | 0                                    | 0    | -2   | -5   | -11  | -18  | -26  | -32  | -36  | -38  | -18       | -168      |  |

Increase in long-term deficits: CBO estimates that enacting S. 2302 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2030.  
 Mandates: None.

Previous CBO estimate: On May 6, 2019, CBO transmitted a cost estimate for S. 383, the USE IT Act, as ordered reported by the Senate Committee on Environment and Public Works on April 10, 2019. Section 1406 of S. 2302 is similar to S. 383 and CBO's estimated cost of enacting those provisions is the same.

On April 26, 2019 CBO released a cost estimate for S. 747, the Diesel Emissions Reduction Act of 2019, as ordered reported by the Senate Committee on Environment and Public Works on April 10,

2019. Sec. 1408 of S. 2302 is similar to S. 747 and CBO’s estimated cost of enacting those provisions is the same.

Estimate prepared by: Federal costs: Stephen Rabent (Environmental Protection Agency); Robert Reese (Department of Transportation and other provisions). Federal revenues: Staff of the Joint Committee on Taxation; Mandates: Brandon Lever.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for 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**

\* \* \* \* \*

TITLE 23, UNITED STATES CODE—TABLE OF SECTIONS

TITLE 23, UNITED STATES CODE—TABLE OF SECTIONS

**SECTIONS OF TITLE 23**

**TITLE 23—HIGHWAYS**

**CHAPTER 1—FEDERAL-AID HIGHWAYS**

|              |   |
|--------------|---|
| Sec.         |   |
| 101.         | Definitions and declaration of policy.                              |
|              | * * * * *   |
| 105.         | <b>[Additional deposits into Highway Trust Fund.]</b>               |
|              | * * * * *   |
| 123.         | Relocation of utility facilities.                                   |
| 124.         | <i>Bridge investment program.</i>                                   |
|              | * * * * *   |
| <b>[139.</b> | <b>Efficient environmental reviews for project decisionmaking.]</b> |

139. *Efficient environmental reviews for project decisionmaking and One Federal Decision.*  
 \* \* \* \* \*
170. **Funding flexibility for transportation emergencies.**  
 171. *Balance exchanges for infrastructure program.*  
 172. *Formula safety incentive program.*  
 173. *Fatality reduction performance program.*  
 174. *Wildlife crossings pilot program.*  
 175. *Wildlife-vehicle collision reduction and habitat connectivity improvement.*  
 176. *State human capital plans.*  
 177. *Formula carbon reduction incentive program.*  
 178. *Carbon reduction performance program.*  
 179. *Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant program.*  
 \* \* \* \* \*

**CHAPTER 1—FEDERAL-AID HIGHWAYS**

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

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

(1) APPORTIONMENT.—\* \* \*

\* \* \* \* \*

(4) CONSTRUCTION.—\* \* \*

\* \* \* \* \*

(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, widening 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 attenu-*

ate 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, duration, or impact of a disruptive weather event or natural disaster to 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 fea-

ture 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.*

\* \* \* \* \*

[(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.]

(1) IN GENERAL.—*There are 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) \$490,282,000 for fiscal year 2021;
- (B) \$499,768,000 for fiscal year 2022;
- (C) \$509,708,000 for fiscal year 2023;
- (D) \$520,084,000 for fiscal year 2024; and
- (E) \$530,459,000 for fiscal year 2025.

\* \* \* \* \*

(b) DIVISION AMONG PROGRAMS OF STATE'S SHARE OF BASE AP-  
PORTIONMENT.—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, and  
to carry out section 134 as follows:

(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—\* \* \*

\* \* \* \* \*

(5) NATIONAL HIGHWAY FREIGHT PROGRAM.—

(A) IN GENERAL.—For the national highway freight pro-  
gram under section 167, the Secretary shall set aside from  
the base apportionment determined for a State under sub-  
section (c) an amount determined for the State under sub-  
paragraphs (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) \$1,625,000,000 for fiscal year 2021;
- (ii) \$1,660,000,000 for fiscal year 2022;
- (iii) \$1,700,000,000 for fiscal year 2023;
- (iv) \$1,740,000,000 for fiscal year 2024; and
- (v) \$1,775,000,000 for fiscal year 2025.

\* \* \* \* \*

## (c) CALCULATION OF AMOUNTS.—

(1) STATE SHARE.—For **each of fiscal years 2016 through 2020** *fiscal year 2021 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 (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 2020*; bears to

\* \* \* \* \*

**[(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 2020; 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 2021 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, and to carry out section 134 in accordance with paragraph (1).

\* \* \* \* \*

(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

\* \* \*

\* \* \* \* \*

(3) TRANSFER OF FUNDS AMONG STATES OR TO **【Federal highway administration】** 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.】**

(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) \$1,160,000,000 for fiscal year 2021;*

*(ii) \$1,184,000,000 for fiscal year 2022;*

*(iii) \$1,208,000,000 for fiscal year 2023;*

*(iv) \$1,233,000,000 for fiscal year 2024; and*

*(v) \$1,259,000,000 for fiscal year 2025.*

\* \* \* \* \*

(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.]

(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, pursuant to section 133(h)—*

*(i) \$1,200,000,000 for fiscal year 2021;*

*(ii) \$1,224,000,000 for fiscal year 2022;*

*(iii) \$1,248,000,000 for fiscal year 2023;*

*(iv) \$1,273,000,000 for fiscal year 2024; and*

*(v) \$1,299,000,000 for fiscal year 2025.*

\* \* \* \* \*

## § 106. Project approval and oversight

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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.— \* \* \*

\* \* \* \* \*

(3) FINANCIAL PLAN.—A financial plan—

(A) \* \* \*

\* \* \* \* \*

(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.

(i) OTHER PROJECTS.— \* \* \*

\* \* \* \* \*

**§ 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.— \* \* \*

\* \* \* \* \*

(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the real property interests acquired are incorporated into a project eligible for surface transportation block grant program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) \* \* \*

\* \* \* \* \*

(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] this title, and in compliance with section 303 of title 49, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

\* \* \* \* \*

**§ 109. Standards**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(A) the constructed and natural environment of the area;

\* \* \* \* \*

## (2) DEVELOPMENT OF CRITERIA.— \* \* \*

\* \* \* \* \*

(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 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 and efficient utilization of the highways.

\* \* \* \* \*

**§ 112. Letting of contracts**

(a) In all cases where the construction is to be performed by the State transportation department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

## (b) BIDDING REQUIREMENTS.—

## (1) IN GENERAL.—\* \* \*

\* \* \* \* \*

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

## (A) GENERAL RULE.—\* \* \*

\* \* \* \* \*

**[(F)(F) bparagraphs]** (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.—\* \* \*

\* \* \* \* \*

(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.*

\* \* \* \* \*

### (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).—\* \* \*

\* \* \* \* \*

(iii) a freight project that is—

(I) a freight intermodal or freight rail project; or

(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 **[\$500,000,000]** 30 percent of the amounts made available for grants under this section for fiscal years **[2016 through 2020, in the aggregate,]** each of fiscal years 2021 through 2025 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—

\* \* \* \* \*

(3) CRITICAL RURAL STATE INTERSTATE PROJECTS.—

(A) REQUIREMENT.—Not less than \$500,000,000 of the amounts made available for grants under this section for fiscal years 2021 through 2025, in the aggregate, shall be used to make grants for Interstate interchange projects between 2 routes on the Interstate System that—

(i) are located in a State—

(I) with a population density of not more than 80 persons per square mile of land area, based on the 2010 census; and

(II) that has 3 or fewer Interstate interchanges between 2 routes on the Interstate System; and

(ii) are projects that—

(I) address a freight system need identified in a State freight plan under section 70202 of title 49 (referred to in this paragraph as a ‘State freight plan’);

(II) address a freight mobility issue identified in a State freight plan; or

(III) are identified in a State freight plan.

(B) INCLUSION IN STATE FREIGHT PLAN.—A project described in subparagraph (A)(ii)(III) may include a project listed in the freight investment plan required under section 70202(b)(9) of title 49.

(C) UNUTILIZED AMOUNTS.—*If, in fiscal year 2025, the Secretary determines that grants under this paragraph will not allow for the amount reserved under subparagraph (A) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section during that fiscal year.*

(4) CRITICAL URBAN STATE PROJECTS.—

(A) REQUIREMENT.—*Not less than \$500,000,000 of the amounts made available for grants under this section for fiscal years 2021 through 2025, in the aggregate, shall be used to make grants to eligible projects that are located in a State with a population density of not less than 400 persons per square mile of land area, based on the 2010 census.*

(B) INCLUSION IN STATE FREIGHT PLAN.—*A project described in subparagraph (A) may include a project listed in the freight investment plan required under section 70202(b)(9) of title 49.*

(C) UNUTILIZED AMOUNTS.—*If, in fiscal year 2025, the Secretary determines that grants under this paragraph will not allow for the amount reserved under subparagraph (A) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section during that fiscal year.*

\* \* \* \* \*

(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.*

(i) RURAL AREAS.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(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).*

\* \* \* \* \*

[(j) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share]

(j) FEDERAL ASSISTANCE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—*Except as provided in subparagraph (B) or for a grant under subsection (q), the Federal share of the cost of a project assisted with a grant under this section may not exceed 60 percent.*

(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.—[Federal assistance 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] except 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 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.— \* \* \*

\* \* \* \* \*

[(l)] (m) TIFIA PROGRAM.— \* \* \*

\* \* \* \* \*

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

(1) NOTIFICATION.— \* \* \*

\* \* \* \* \*

(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 administrative 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 January 1, 2019.*

(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 America's Transportation Infrastructure Act of 2019 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 America's Transportation Infrastructure Act of 2019 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.

\* \* \* \* \*

**§ 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 measures to increase the resiliency of Federal-aid highways and bridges on and off the National Highway System to mitigate the impacts of sea level rise, extreme weather events, flooding, or other natural disasters.

\* \* \* \* \*

(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 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.*

(2) **PROTECTIVE FEATURES DESCRIBED.**—*A protective feature referred to in paragraph (1) may include—*

*(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) installing riprap;*

*(F) lengthening or raising bridges to increase waterway openings;*

*(G) deepening channels to prevent flooding;*

*(H) increasing the size or number of drainage structures;*

*(I) replacing culverts with bridges or upsizing culverts;*

*(J) repairing or maintaining tide gates;*

*(K) installing seismic retrofits on bridges;*

*(L) adding scour protection at bridges;*

*(M) adding scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes;*

*(N) 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; and*

*(O) any other features that mitigate the risk of recurring damage or the cost of future repair as a result of extreme weather events, flooding, or other natural disasters, as determined by the Secretary.*

(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.**— \* \* \*

\* \* \* \* \*

(c) **INCREASED FEDERAL SHARE.**—

(1) **CERTAIN SAFETY PROJECTS.**— \* \* \*

\* \* \* \* \*

(4) **PROTECTIVE FEATURES.**—

*(A) IN GENERAL.*—*Notwithstanding any other provision of law, the Federal share payable for the cost of a protective feature on a Federal-aid highway or bridge project under this title may be up to 100 percent, at the discretion of the State, if the protective feature is an improvement designed*

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

(B) PROTECTIVE FEATURES DESCRIBED.—A protective feature referred to in subparagraph (A) may include—

- (i) raising roadway grades;
- (ii) relocating roadways in a base floodplain to higher ground above projected flood elevation levels or away from slide prone areas;
- (iii) stabilizing slide areas;
- (iv) stabilizing slopes;
- (v) installing riprap;
- (vi) lengthening or raising bridges to increase waterway openings;
- (vii) deepening channels to prevent flooding;
- (viii) increasing the size or number of drainage structures;
- (ix) replacing culverts with bridges or upsizing culverts;
- (x) repairing or maintaining tide gates;
- (xi) installing seismic retrofits on bridges;
- (xii) adding scour protection at bridges;
- (xiii) adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;
- (xiv) 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; and
- (xv) any other features that mitigate the risk of recurring damage or the cost of future repair as a result of extreme weather events, flooding, or other natural disasters, as determined by the Secretary.

\* \* \* \* \*

### § 123. Relocation of utility facilities

(a) \* \* \*

\* \* \* \* \*

### § 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 2021 through 2025, 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);

(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.—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).*

*(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) 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).

(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, 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 Environmental 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 America’s Transportation Infrastructure Act of 2019, 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 2021 through 2025, not less than 50 percent, in aggregate, shall be used for large projects.*

(2) UNUTILIZED AMOUNTS.—*If, in fiscal year 2025, 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 2021;*
- (B) \$18,000,000 for fiscal year 2022;*
- (C) \$20,000,000 for fiscal year 2023;*
- (D) \$22,000,000 for fiscal year 2024; and*
- (E) \$24,000,000 for fiscal year 2025.*

(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*, *sea level rise*, or landslide; or
- (2) catastrophic failure from any external cause.

\* \* \* \* \*

[(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 Federal, State, Tribal, or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.*

\* \* \* \* \*

(d) ELIGIBILITY.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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 designed to mitigate the risk of recurring dam-*

age from extreme weather events, flooding, or 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 is designed to mitigate the risk of recurring damage, or the cost of future repair, from extreme weather events, flooding, or other natural disasters.*

(B) PROTECTIVE FEATURES DESCRIBED.—*A protective feature referred to in subparagraph (A) may include—*

- (i) raising roadway grades;*
- (ii) relocating roadways in a base floodplain to higher ground above projected flood elevation levels or away from slide prone areas;*
- (iii) stabilizing slide areas;*
- (iv) stabilizing slopes;*
- (v) installing riprap;*
- (vi) lengthening or raising bridges to increase waterway openings;*
- (vii) deepening channels to prevent flooding;*
- (viii) increasing the size or number of drainage structures;*
- (ix) replacing culverts with bridges or upsizing culverts;*
- (x) repairing or maintaining tide gates;*
- (xi) installing seismic retrofits on bridges;*
- (xii) adding scour protection at bridges;*
- (xiii) adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;*
- (xiv) 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; and*
- (xv) any other features that mitigate the risk of recurring damage or the cost of future repair as a result of extreme weather events, flooding, or other natural disasters, as determined by the Secretary.*

[(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)).*

[(4)] (5) TERRITORIES.—*The total obligations for projects under this section for any fiscal year in the Virgin Islands,*

Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000.

[(5)] (6) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

\* \* \* \* \*

**§ 127. Vehicle weight limitations-Interstate System**

(a) IN GENERAL.—

(1) \* \* \*

\* \* \* \* \*

(l) OPERATION OF VEHICLES ON CERTAIN KENTUCKY HIGHWAYS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) ADDITIONAL HIGHWAY SEGMENTS.—

(A) IN GENERAL.—If any segment of highway described in [clause (i) or (ii)] *clauses (i) through (iv)* of this subparagraph 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:

(i) The William H. Natcher Parkway (to be designated as a spur of Interstate Route 65) from Interstate Route 65 in Bowling Green, Kentucky, to United States Route 60 in Owensboro, Kentucky.

(ii) The Julian M. Carroll (Purchase) Parkway (to be designated as Interstate Route 69) in Kentucky from the Tennessee state line to the interchange with Interstate Route 24, near Calvert City.

(iii) *The Wendell H. Ford (Western Kentucky) Parkway (to be designated as a spur of Interstate Route 69) 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.*

(iv) *The Edward T. Breathitt Parkway (to be designated as a spur of Interstate Route 69) from Interstate 24 to Interstate 69.*

(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).

\* \* \* \* \*

## § 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 America’s Transportation Infrastructure Act of 2019, 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:

\* \* \* \* \*

(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 procurement 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—

(i) a State, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000; and

(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 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.] *crossings and as described in subparagraph (B), not less than \$245,000,000 for each of fiscal years 2021 through 2025.*

[(B) INSTALLATION OF PROTECTIVE DEVICES.—At least ½ 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.— \* \* \*

\* \* \* \* \*

(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* of 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.

\* \* \* \* \*

### § 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 foremost 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.*

\* \* \* \* \*

(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) *Projects that use natural infrastructure alone or in combination with other eligible projects to enhance resilience of a transportation facility otherwise eligible for assistance under this section.*

**【(4)】** (5) Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings.

**【(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, 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).

**【(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.*

[(13)] (15) 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)] (16) 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*, 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)] (17) 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.

(18) *Rural barge landing, dock, and waterfront infrastructure projects in accordance with subsection (j).*

(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 (12) and paragraph (18)* 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 of funds under subsection (h))—

(A) [the percentage specified in paragraph (6) for a fiscal year] *55 percent for each of fiscal years 2021 through 2025*

shall be obligated under this section, in proportion to their relative shares of the population of the State—

\* \* \* \* \*

[(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 2021 through 2025* 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 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 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】** *fiscal years 2021 through 2025* may be obligated on roads functionally classified as minor collectors.

\* \* \* \* \*

(h) STP SET-ASIDE.—

(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(2) 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】**

*(i) \$1,200,000,000 for fiscal year 2021;*

*(ii) \$1,224,000,000 for fiscal year 2022;*

*(iii) \$1,248,000,000 for fiscal year 2023;*

*(iv) \$1,273,000,000 for fiscal year 2024; and*

*(v) \$1,299,000,000 for fiscal year 2025; 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 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))—*

*(i) for each fiscal year, the percentage specified in subsection (d)(1)(A) shall be deemed to be 57.5 percent; and*

*(ii) paragraph (3) of that subsection shall not apply.*

(B) LOCAL CONTROL.—

(i) IN GENERAL.—*On approval of a plan submitted to the Secretary that describes the manner in which the plan will maximize local control and the means by which the State plans to comply with paragraph (8), the State may allocate up to 100 percent of the funds referred to in subparagraph (A)(i) to counties and other local transportation entities.*

(ii) REQUIREMENT.—*A State that allocates funding under clause (i) to counties and other local transportation entities shall make available an equivalent amount of obligation limitation to those counties and other local transportation entities.*

\* \* \* \* \*

(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) 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 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 population of over 200,000 or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

\* \* \* \* \*

(6) STATE FLEXIBILITY.—

(A) RECREATIONAL TRAILS.— \* \* \*

\* \* \* \* \*

(C) IMPROVING ACCESSIBILITY AND EFFICIENCY.—

(i) IN GENERAL.—*A State may elect to use an amount equal to not more than 7 percent of the funds reserved 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—

(I) providing 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) providing 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.—

(i) IN GENERAL.—The average annual non-Federal share of the total cost of all projects carried out under this subsection in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

(ii) SINGLE PROJECTS.—Subject to clause (i), the Federal share of the total cost of a single project carried out under this subsection may be up to 100 percent.

(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 type under this subsection that the Secretary determines to have an expected safety benefit; and

(ii) the non-Federal share for a project under this subsection may be calculated on a project, multiple-project, or program basis.

[(7)] (8) ANNUAL REPORTS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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))—

(A) that is off the road system; and

(B) for which the Secretary determines there is a lack of adequate infrastructure.

\* \* \* \* \*

**§ 134. Metropolitan transportation planning**

(a) POLICY.—It is in the national interest—

(1) \* \* \*

\* \* \* \* \*

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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 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.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(4) COORDINATION BETWEEN MPOS.—*If more than 1 metropolitan planning organization is designated within an urban-*

ized 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.— \* \* \*

\* \* \* \* \*

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(C) METHODS.— \* \* \*

\* \* \* \* \*

(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.

\* \* \* \* \*

**§ 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.— \* \* \*

\* \* \* \* \*

(B) METHODS.— \* \* \*

\* \* \* \* \*

(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.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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, and 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.

\* \* \* \* \*

**§ 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*, approval, 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.

\* \* \* \* \*

(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.

\* \* \* \* \*

(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 America’s Transportation Infrastructure Act of 2019, 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 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.— \* \* \*

\* \* \* \* \*

(B) SCHEDULE.—

(i) IN GENERAL.— \* \* \*

\* \* \* \* \*

(ii) FACTORS FOR CONSIDERATION.— \* \* \*

\* \* \* \* \*

(IV) *the overall [schedule for and cost of] time required by an agency to conduct an environmental review and make decisions under applica-*

*ble 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—

\* \* \* \* \*

(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.— \* \* \*

\* \* \* \* \*

(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.

\* \* \* \* \*

(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, 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) a list of the categorical exclusions identified under subparagraph (A) and 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 the 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 1508.4 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 1508.4 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, 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 as-

sistance 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) \* \* \*

\* \* \* \* \*

[(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 2021 through 2025*, to carry out this section.

\* \* \* \* \*

**§ 144. National bridge and tunnel inventory and inspection standards**

(a) FINDINGS AND DECLARATIONS.—

(1) FINDINGS.— \* \* \*

\* \* \* \* \*

(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, replacementrehabilitation of highway bridges and tunnels to ensure safety, *resilience*, and extended service life;

\* \* \* \* \*

(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 America’s Transportation Infrastructure Act of 2019 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.— \* \* \*

\* \* \* \* \*

**[(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 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—*

- (1) \$86,000,000 for fiscal year 2021;*
- (2) \$87,000,000 for fiscal year 2022;*
- (3) \$88,000,000 for fiscal year 2023;*
- (4) \$89,000,000 for fiscal year 2024; and*

(5) \$90,000,000 for fiscal year 2025.

\* \* \* \* \*

**§ 148. Highway safety improvement program**

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

(1) HIGH RISK RURAL ROAD.— \* \* \*

\* \* \* \* \*

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) INCLUSIONS.—The term “highway safety improvement project” only includes a project for 1 or more of the following:

(i) An intersection safety improvement. \* \* \*

\* \* \* \* \*

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

(xxviii) *Leading pedestrian intervals.*

[(xxviii)] (xxix) A physical infrastructure safety project not described in clauses (i) [through (xxvii)] through (xxviii).

\* \* \* \* \*

(9) SAFETY DATA.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

(A) IN GENERAL.—*The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.*

(B) INCLUSION.—*The term ‘safety project under any other section’ includes a project, consistent with the State strategic highway safety plan, that—*

(i) *promotes public awareness and informs the public regarding highway safety matters (including motorcycle safety);*

(ii) *facilitates enforcement of traffic safety laws;*

(iii) *provides infrastructure and infrastructure-related equipment to support emergency services; or*

(iv) *conducts safety-related research to evaluate experimental safety countermeasures or equipment.*

[(10)] (11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.— \* \* \*

\* \* \* \* \*

[(11)] (12) STATE STRATEGIC HIGHWAY SAFETY PLAN.— \* \* \*

\* \* \* \* \*

[(12)] (13) 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.

\* \* \* \* \*

(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)(12) and (d);

\* \* \* \* \*

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.— \* \* \*

\* \* \* \* \*

(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Each State shall— \* \* \*

\* \* \* \* \*

(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)(12); and

\* \* \* \* \*

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) FLEXIBLE FUNDING FOR SAFETY PROJECTS UNDER ANY OTHER SECTION.—

(A) IN GENERAL.—*To advance the implementation of a State strategic highway safety plan, a State may use not more than 25 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out safety projects under any other section.*

(B) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—*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.*

\* \* \* \* \*

(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting 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*Rrformance 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) \* \* \*

\* \* \* \* \*

(8) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) \* \* \*

\* \* \* \* \*

(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 retrofits; **[or]**

(9) if the project or program is for the installation of vehicle-to-infrastructure communication equipment**[.]**; and

(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).*

\* \* \* \* \*

**[(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 Amtrak 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.*

\* \* \* \* \*

**§ 150. National goals and performance management measures**

(a) DECLARATION OF POLICY.— \* \* \*

\* \* \* \* \*

(e) REPORTING ON PERFORMANCE TARGETS.— \* \* \*

\* \* \* \* \*

(f) EXEMPTIONS FOR LOW POPULATION DENSITY STATES.—

(1) IN GENERAL.—*The Secretary shall grant, on the election of and in consultation with a State, an exemption from 1 or more of the requirements described in paragraph (2)(A) if the State—*

*(A) is on the list of eligible States under paragraph (5) for the applicable performance period; and*

*(B) provides a written notice of the election that includes an explanation under paragraph (4)(A).*

(2) REQUIREMENTS DESCRIBED.—

(A) STATE REQUIREMENTS.—*The requirements from which a State described in paragraph (1) may elect an exemption are—*

*(i) requirements established under subclauses (IV) and (V) of subsection (c)(3)(A)(ii);*

*(ii) requirements established under subsection (c)(5)(A);*

*(iii) requirements established under subsection (c)(6); and*

*(iv) targeting, data, reporting, or administrative requirements established under subsections (d) and (e) that are related to a requirement described in clause (i), (ii), or (iii) from which the State elects to receive an exemption.*

(B) METROPOLITAN PLANNING ORGANIZATION REQUIREMENTS.—*A metropolitan planning organization with a metropolitan planning area that is located entirely within a State that is exempt shall be exempt from the requirements under section 134(h)(2)(B) that relate to each measure described in subparagraph (A) from which the State of the metropolitan planning organization is exempt.*

(3) TERM.—*An exemption applied under paragraph (1) —*

*(A) shall be in effect until the date that is 4 years after the date on which the performance period promulgated by the Secretary under subsection (d) in effect at the time the exemption is applied ends; and*

*(B) may be renewed by the State for an additional 4-year term at the end of each performance period if, in accordance with paragraph (4)—*

*(i) the State submits another written explanation; and*

*(ii) the State continues to be included on the list of eligible States under paragraph (5).*

(4) NOTIFICATION OF ELECTION OF EXEMPTION.—

(A) IN GENERAL.—*To be eligible to make an election under paragraph (1), not later than September 1 of the calendar year preceding the calendar year in which the next*

performance period promulgated by the Secretary under subsection (d) begins, a State described in that paragraph—

(i) shall submit to the Secretary—

(I) identification of the 1 or more requirements described in paragraph (2)(A) for which an exemption is elected; and

(II) a written notice that includes an explanation advising the Secretary that the State is not experiencing significant performance issues on the surface transportation system of the State with respect to each requirement referred to in subclause (I); and

(ii) may submit to the Secretary any other information or material that the State chooses to include in the notice.

(B) SPECIAL RULE.—Notwithstanding the deadline described in subparagraph (A), a State described in paragraph (1) may submit a notice under subparagraph (A) at any time before September 1, 2021.

(5) ELIGIBLE STATES.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection and thereafter, on each September 1 of the calendar year 2 years prior to the calendar year in which the next performance period promulgated by the Secretary under subsection (d) begins, the Secretary shall publish a list of States that may elect to receive an exemption from a requirement described in paragraph (2)(A).

(B) INCLUSIONS.—The Secretary shall include on the list under subparagraph (A)—

(i) any State that—

(I) has a population per square mile of area that is less than the population per square mile of area of the United States, based on the latest available Bureau of the Census data at the time the Secretary publishes the list;

(II) does not include an urbanized area with a population of over 200,000 within the State; and

(III) has no repeated delays or other persistent impediments to travel reliability on the portions of the National Highway System in the State that the Secretary determines to be excessive; and

(ii) based on the latest available Bureau of the Census data at the time the Secretary publishes the list, any State that—

(I) has a population density of less than 15 persons per square mile of area; and

(II) does not include an urbanized area with a population of over 200,000.

(6) NATIONAL REPORTING.—

(A) ELIGIBLE STATES.—For each State included on the list of eligible States under paragraph (5), 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 status of traffic congestion, travel reliability, truck travel reliability, and any other relevant performance metrics on the portions of the National Highway System in the State, including any delays or impediments that the Secretary determines to be excessive.*

(B) EXEMPT STATES.—*For each eligible State under paragraph (5) that elects to receive an exemption under paragraph (1), the Secretary shall—*

*(i) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of performance measures for all exemptions applied to that State under this subsection; and*

*(ii) make publicly available as part of the State performance dashboard on the Department of Transportation website information on the performance of the State with respect to any requirements from which the State is exempt.*

\* \* \* \* \*

#### **§ 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 periodically 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 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,] *180 days after the date of enactment of the America's Transportation Infrastructure Act of 2019, the Secretary shall establish a recurring process to regularly update and redesignate the corridors.*

(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; and 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, 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) ESTABLISHMENT.—*Not later than 1 year after the date of enactment of the America's Transportation Infrastructure Act of 2019, the Secretary shall establish a grant program to award grants to eligible entities to carry out the activities described in paragraph (5).*

(2) 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) *an authority, agency, or instrumentality of, or an entity owned by, 1 or more entities described in subparagraphs (A) through (E); or*

(G) *a group of entities described in subparagraphs (A) through (F).*

(3) 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, 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, or natural gas fueling infrastructure;

(II) to expand deployment of electric vehicle charging infrastructure, hydrogen 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, 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 and future charging methods; and

(v) the long-term operation and maintenance of the electric vehicle charging infrastructure, hydrogen 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, 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).

(4) 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; and
  - (iv) support a long-term competitive market for electric vehicle charging infrastructure, hydrogen fueling infrastructure, or natural gas fueling infrastructure that does not significantly impair existing electric vehicle charging infrastructure, hydrogen fueling infrastructure, or natural gas fueling infrastructure providers;
- (B) ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that electric vehicle charging infrastructure, hydrogen 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 (5)—
- (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, 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 (5) enter into an agreement—
- (i) to operate and maintain publicly available electric vehicle charging infrastructure, hydrogen 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.
- (5) 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, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.
- (B) LOCATION OF INFRASTRUCTURE.—Any electric vehicle charging infrastructure, hydrogen 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—

(i) under this section, on the condition that any affected Indian tribes are consulted before the designation; or

(ii) by a State or group of States, such as the Regional Electric Vehicle West Plan of the States of Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, 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 electric vehicle charging infrastructure, hydrogen 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, or natural gas fueling infrastructure and service, including costs associated with labor, marketing, and administrative costs.

(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, or natural gas fueling infrastructure.

(D) SIGNS.—

(i) IN GENERAL.—Subject to this paragraph and paragraph (6)(B), an eligible entity that receives a grant under this subsection may use a portion of the funds to acquire and install—

(I) traffic control devices located in the right-of-way to provide directional information to electric vehicle charging infrastructure, hydrogen fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated with the grant; and

(II) on-premises signs to provide information about electric vehicle charging infrastructure, hydrogen fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated with a grant under this subsection.

(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, or natural gas fueling infrastructure.*

(iii) *LIMITATION ON AMOUNT.—The amount of funds used to acquire and install traffic control devices and on-premises signs 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 or on-premises signs if the entity is not otherwise authorized to do so.*

(E) *REVENUE.—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, or natural gas fueling infrastructure.*

(6) *PROJECT REQUIREMENTS.—*

(A) *IN GENERAL.—Notwithstanding any other provision of law, any project funded by a grant under this subsection 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.*

(7) *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 (5), 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).*

(8) *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.*

\* \* \* \* \*

**§ 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) \$161,500,000 shall be for fiscal year 2021;
- (B) \$165,000,000 shall be for fiscal year 2022;
- (C) \$168,000,000 shall be for fiscal year 2023;
- (D) \$171,000,000 shall be for fiscal year 2024; and
- (E) \$175,500,000 shall be for fiscal year 2025; and

(2) for the territorial highway program under subsection (c)—

- (A) \$43,000,000 shall be for fiscal year 2021;
- (B) \$43,000,000 shall be for fiscal year 2022;
- (C) \$44,000,000 shall be for fiscal year 2023;
- (D) \$45,000,000 shall be for fiscal year 2024; and
- (E) \$46,000,000 shall be for fiscal year 2025.

\* \* \* \* \*

(c) TERRITORIAL HIGHWAY PROGRAM.—

(1) TERRITORY DEFINED.— \* \* \*

\* \* \* \* \*

(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 PUBLIC AUTHORITIES.—  
A public authority]

(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

\* \* \* \* \*

**§ 167. National highway freight program**

(a) IN GENERAL.—

(1) POLICY.— \* \* \*

\* \* \* \* \*

(e) CRITICAL RURAL FREIGHT CORRIDORS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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**].** **[and]**

(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.—  
 \* \* \*

\* \* \* \* \*  
**[(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. Balance exchanges for infrastructure program*

(a) DEFINITIONS.—*In this section:*

(1) ADMINISTRATIVELY ALLOCATED.—*The term ‘administratively allocated’ means the allocation by the Secretary of budget authority for a project under the TIFIA program that occurs when—*

*(A) a potential applicant has been invited into the credit-worthiness phase for a project under the TIFIA program; or*

*(B) the project is subject to a master credit agreement (as defined in section 601(a)), in accordance with section 602(b)(2).*

(2) APPALACHIAN STATE.—*The term ‘Appalachian State’ means a State that contains 1 or more counties in the Appalachian region (as defined in section 14102(a) of title 40).*

(3) PROGRAM.—*The term ‘program’ means the Balance Exchanges for Infrastructure Program established under subsection (b).*

(4) TIFIA CARRYOVER BALANCE.—

*(A) IN GENERAL.—The term ‘TIFIA carryover balance’ means the amounts made available for the TIFIA program for previous fiscal years that are unobligated and have not been administratively allocated.*

*(B) INCLUSION.—The term ‘TIFIA carryover balance’ includes—*

*(i) the applicable amount of contract authority for the amounts described in subparagraph (A); and*

*(ii) the equivalent amount of obligation limitation for the fiscal year in which the Secretary makes a transfer under subsection (f)(2).*

(5) TIFIA PROGRAM.—*The term ‘TIFIA program’ has the meaning given the term in section 601(a).*

(b) ESTABLISHMENT.—*The Secretary shall establish a program, to be known as the ‘Balance Exchanges for Infrastructure Program’, in*

accordance with this section to provide flexibility for the Secretary and States to improve highway infrastructure.

(c) OFFER TO FUND PROJECTS OR EXCHANGE FUNDS.—

(1) SOLICITATION.—*For each fiscal year for which an amount is reserved under subsection (f)(1), the Secretary shall—*

(A) *not later than December 1 of that fiscal year—*

(i) *solicit requests from Appalachian States to return amounts under subsection (d)(1)(A); and*

(ii) *solicit applications from Appalachian States for grants under subsection (e); and*

(B) *require that, not later than 60 days after the date of the solicitations under subparagraph (A), each Appalachian State that elects to participate in the program shall submit to the Secretary either—*

(i) *a request that describes the amount that the Appalachian State requests to return under subsection (d)(1)(A); or*

(ii) *an application for a grant under subsection (e).*

(d) EXCHANGE AGREEMENTS.—

(1) IN GENERAL.—*The Secretary shall enter into an agreement with each Appalachian State that submits a request under subsection (c)(1)(A)(i) under which—*

(A) *the Appalachian State shall return to the Secretary all, or at the discretion of the Appalachian State, a portion of, the unobligated amounts from the Highway Trust Fund (including the applicable amount of contract authority and an equal amount of special no-year obligation limitation associated with that contract authority) apportioned to the Appalachian State for the Appalachian development highway system under section 14501 of title 40 (but not including any amounts made available by an appropriations Act without an initial authorization); and*

(B) *the Secretary shall transfer to the Appalachian State, from amounts transferred to the program under subsection (f)(2) for that fiscal year, an amount (including the applicable amount of contract authority and an equal amount of annual obligation limitation) equal to the amount that the Appalachian State returned under subparagraph (A) that shall be used to carry out projects described in paragraph (3).*

(2) STATE LIMITATION.—*The amount of contract authority returned by an Appalachian State under paragraph (1)(A) may not exceed the amount of the special no-year obligation limitation available to the Appalachian State prior to the return of the special no-year obligation limitation under that paragraph.*

(3) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—*A project eligible to be carried out using funds transferred to an Appalachian State under paragraph (1)(B) is a project described in section 133(b).*

(B) FEDERAL SHARE.—*The Federal share of the cost of a project carried out using funds transferred to an Appalachian State under paragraph (1)(B) shall be up to 100 percent, at the discretion of the Appalachian State.*

(C) APPLICATION OF SECTION 133.—*Except as otherwise provided in this paragraph, section 133 shall not apply to a project carried out using funds transferred to an Appalachian State under paragraph (1)(B).*

(4) TOTAL LIMITATION.—*For each fiscal year, the total amount exchanged under paragraph (1) shall not exceed the amount available to be transferred to the program under subsection (f).*

(5) AMOUNTS EXCHANGED.—*For each fiscal year, if the total amount requested by all Appalachian States to return under paragraph (1)(A) is greater than the amount available to be transferred to the program under subsection (f), the Secretary shall exchange amounts under paragraph (1) based on the proportion that—*

(A) *the amount requested to be returned for the fiscal year by the Appalachian State; bears to*

(B) *the amount requested to be returned for the fiscal year by all Appalachian States.*

(e) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM CORRIDOR GRANTS.—

(1) IN GENERAL.—*Using amounts returned to the Secretary under subsection (d)(1)(A), the Secretary shall provide grants of contract authority, to remain available until expended, and subject to special no-year obligation limitation, on a competitive basis to Appalachian States for eligible projects described in paragraph (2).*

(2) ELIGIBLE PROJECT.—*A project eligible to be carried out with a grant under this subsection is a project that is—*

(A) *eligible under section 14501 of title 40 as of the date of enactment of this section; and*

(B) *reasonably expected to begin construction by not later than 2 years after the date of obligation of funds provided under this subsection for the project.*

(3) APPLICATION.—*To be eligible to receive a grant under this subsection, an Appalachian State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.*

(4) FEDERAL SHARE.—*The Federal share of the cost of a project carried out using a grant provided under this subsection shall be up to 100 percent, at the discretion of the Appalachian State.*

(5) LIMITATION.—*An Appalachian State that enters into an agreement to exchange funds under subsection (d) for any fiscal year shall not be eligible to receive a grant under this subsection.*

(f) TRANSFER FROM TIFIA PROGRAM.—

(1) IN GENERAL.—*On October 1 of each fiscal year, the Secretary shall reserve, for the purpose of funding transfers under paragraph (2) until the transfers are completed, the amount of TIFIA carryover balance that exceeds the amount authorized to carry out the TIFIA program for that fiscal year.*

(2) TRANSFERS.—*For each fiscal year, not later than 60 days after the date on which the Secretary receives the responses to the solicitations under subsection (c)(1) or the date on which the full appropriation for that fiscal year is available, whichever is*

later, the Secretary shall transfer from the TIFIA program to the program an amount of contract authority and an equal amount of obligation limitation, to remain available until expended, that is equal to the lesser of—

- (A) the total amount requested by all Appalachian States for the fiscal year under subsection (c)(1)(B)(i);
- (B) the total amount requested by all Appalachian States for grants under subsection (c)(1)(B)(ii); and
- (C) the amount reserved under paragraph (1).

§ 172. Formula safety incentive 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 MANAGEMENT AREA.—*The term ‘transportation management area’ means a transportation management area identified or designated by the Secretary under section 134(k)(1).*

(3) VULNERABLE ROAD USER.—*The term ‘vulnerable road user’ means a nonmotorist (as that term is used in the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration).*

(4) VULNERABLE ROAD USER SAFETY FOCUS AREA.—*The term ‘vulnerable road user safety focus area’ means—*

(A) *an urbanized area with combined fatality rate of vulnerable road users that is greater than 1.5 per 100,000 individuals; or*

(B) *a State in which fatalities of vulnerable road users combined represents not less than 15 percent of the total annual crash fatalities in the State.*

(b) FORMULA FUNDING AWARDS.—

(1) IN GENERAL.—*For each fiscal year, the Secretary shall distribute among the States the amounts made available to carry out this section for that fiscal year in accordance with paragraph (2).*

(2) DISTRIBUTION.—*The amount for each State shall be determined by multiplying the total amount of funding made available to carry out this section for the applicable fiscal year by the ratio that—*

(A) *the total base apportionment for the State under section 104(c); bears to*

(B) *the total base apportionments for all States under section 104(c).*

(c) SAFETY SUPPLEMENTAL.—

(1) IN GENERAL.—*A State shall use 50 percent of the amount distributed to the State under subsection (b) for each fiscal year to carry out the eligible activities under paragraph (2).*

(2) ELIGIBLE ACTIVITIES.—

(A) STATES.—*Subject to paragraph (4)(A), a State shall use the funds under paragraph (1) for a highway safety improvement project or strategy included on the State stra-*

*tegic highway safety plan (as defined in section 148(a)) of the State.*

*(B) MPOS.—Subject to paragraph (4)(B), a metropolitan planning organization that is required to obligate funds under subsection (e) shall use the funds under paragraph (1) for a highway safety improvement project (as defined in section 148(a)).*

*(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds under paragraph (1) shall be determined in accordance with section 120.*

*(4) LIMITATION ON FLEXIBILITY.—*

*(A) STATES.—Notwithstanding paragraph (2)(A), a State that is a vulnerable road user safety focus area shall use the funds under paragraph (1) for a highway safety improvement project (as defined in section 148(a)) to improve the safety of vulnerable road users, regardless of whether the project is included on the State strategic highway safety plan (as defined in section 148(a)) of the State.*

*(B) MPOS.—Notwithstanding paragraph (2)(B), a metropolitan planning organization that is required to obligate funds under subsection (e) that contains an area designated as a vulnerable road user safety focus area shall use the funds under paragraph (1) for a highway safety improvement project (as defined in section 148(a)) to improve the safety of vulnerable road users.*

*(d) SAFETY PLANNING INCENTIVE.—*

*(1) VULNERABLE ROAD USER SAFETY ASSESSMENTS.—*

*(A) IN GENERAL.—A State may, in consultation with metropolitan planning organizations within the State, develop and publish a State vulnerable road user safety assessment described in subparagraph (B).*

*(B) STATE VULNERABLE ROAD USER SAFETY ASSESSMENT DESCRIBED.—A vulnerable road user safety assessment referred to in subparagraph (A) is an assessment of the safety performance of the State with respect to vulnerable road users and the plan of the State, developed in consultation with the metropolitan planning organizations within the State, if any, to improve the safety of vulnerable road users, which shall—*

*(i) include the approximate location within the State of each vulnerable road user fatality during the most recently reported 2-year period of final data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration and the operating speed of the roadway at that location;*

*(ii) include the corridors within the State on which a vulnerable road user fatality has occurred during the most recently reported 2-year period of final data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration and the operating speeds of those corridors;*

*(iii) include a list of projects within the State that primarily address the safety of vulnerable road users that—*

(I) have been completed during the 2 most recent fiscal years prior to date of the publication of the vulnerable road user safety assessment, including the amount of funding that has been dedicated to those projects, described in total amounts and as a percentage of total capital expenditures;

(II) are planned to be completed during the 2 fiscal years following the date of the publication of the vulnerable road user assessment, including the amount of funding that the State plans to be dedicated to those projects, described in total amounts and as a percentage of total capital expenditures; and

(III) have the potential to be included on the list described in subclause (II) once the permitting and approval processes for those projects are complete, including the reason for the delay in the completion of those processes, if any; and

(iv) be reviewed and certified by the Secretary to have met the requirements of this subparagraph.

(2) ACCELERATION OF SAFETY PROJECT DELIVERY.—For each project identified by a State under paragraph (1)(B)(iii)(III), to the maximum extent practicable, the Secretary, in consultation with the State, shall use the authority under section 1420 of the FAST Act (23 U.S.C. 101 note; Public Law 114–94) to accelerate delivery of the project.

(3) SAFETY PLAN INCENTIVE.—A State shall use 50 percent of the amounts made available to the State under subsection (b) for each fiscal year to carry out eligible activities under paragraph (4).

(4) ELIGIBLE ACTIVITIES.—

(A) IN GENERAL.—A State and any metropolitan planning organization in the State that is required to obligate funds under subsection (e) may use funds under paragraph (3) for a project or strategy described in subsection (c)(2).

(B) ADDITIONAL ELIGIBILITY INCENTIVE.—In addition to the eligible activities under subparagraph (A), a State and any metropolitan planning organization in the State that is required to obligate funds under subsection (e) may use the funds under paragraph (3) for a project eligible under section 133(b) if—

(i) the State has, within the fiscal year prior to the fiscal year in which the Secretary is making the grant or by a deadline established by the Secretary in the fiscal year in which the Secretary is making the grant, conducted and published a vulnerable road user safety assessment described in paragraph (1)(B) that has been approved by the Secretary under clause (iv) of that paragraph; or

(ii) for a State that has previously published a vulnerable road user safety assessment described in paragraph (1)(B) that has been approved by the Secretary under clause (iv) of that paragraph—

(I) the State has, within the fiscal year prior to the fiscal year in which the Secretary is making the grant or by a deadline established by the Secretary in the fiscal year in which the Secretary is making the grant, updated the estimates described in clauses (i) and (ii) of paragraph (1)(B); and

(II) the State and the metropolitan planning organization have, within the 4 fiscal years prior to the fiscal year in which the Secretary is making the grant or by a deadline established by the Secretary in the fiscal year in which the Secretary is making the grant, incorporated a vulnerable road user safety assessment described in paragraph (1)(B) into—

(aa) a long-range transportation plan developed by the metropolitan planning organization under section 134(c), if any; and

(bb) the long-range statewide transportation plan developed by the State under section 135(f)(1).

(5) FEDERAL SHARE.—*The Federal share of the cost of a project carried out using funds under paragraph (3)—*

(A) *in the case of a State or metropolitan planning organization within a State that meets the requirements under paragraph (4)(B), may be up to 100 percent, at the discretion of the State; and*

(B) *in the case of a State or metropolitan planning organization within a State that is not described in subparagraph (A), shall be determined in accordance with section 120.*

(e) SUBALLOCATION REQUIREMENTS.—

(1) IN GENERAL.—*For each fiscal year, of the funds made available to a State under subsections (c) and (d)—*

(A) *65 percent of each amount 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 over 200,000; and*

(ii) *in other areas of the State; 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 200,000 POPULATION.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), the amount that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) 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) CONSULTATION IN URBANIZED AREAS.—Before obligating funds for an activity under subsections (c) or (d) in an urbanized area that is not a transportation management area, a State shall consult with any metropolitan planning organization that represents the urbanized area prior to determining which activities should be carried out.

(5) CONSULTATION IN RURAL AREAS.—Before obligating funds for an eligible activity under subsections (c) and (d) in a rural area, a State shall consult with any regional transportation planning organization or metropolitan planning organization that represents a rural area of the State prior to determining which activities should be carried out.

§ 173. Fatality reduction performance 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) QUALIFYING STATE.—The term ‘qualifying State’ means a State in which—

(A) the average fatality and serious injury rates per 100,000,000 vehicle-miles-traveled within the State during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section has grown more slowly or declined, as compared to the average fatality and serious injury rates per 100,000,000 vehicle-miles-traveled within the State during the 3-year period beginning on January 1 of the fiscal year that was 6 years prior to the fiscal year in which the Secretary is making the grant under this section;

(B) the average annual number of serious injuries and fatalities within the State, as measured on a per capita basis, during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section has grown more slowly or declined, as compared to the average annual number of serious injuries and fatalities within the State, as measured on a per capita basis, during the 3-year period beginning on January 1 of the fiscal year that was 6 years prior to the fiscal year in which the Secretary is making the grant under this section;

(C) the average annual number of fatalities within the State, as measured on a per capita basis, during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section is less than  $\frac{1}{2}$  of the nationwide average annual per capita number of fatalities during that period; or

(D)(i) the performance targets set by the State under subsection (d)(1) of section 150, in accordance with subsection (c)(4) of that section, in the most recently completed performance cycle prior to the year in which the Secretary is making the funds available under this section demonstrate a reduction in the number and rate of serious injuries and fatalities; and

(ii) the State has met or exceeded the performance targets described in clause (i).

(3) QUALIFYING UNIT OF LOCAL GOVERNMENT.—The term ‘qualifying unit of local government’ means a unit of local government in an urbanized area served by a metropolitan planning organization in which—

(A) the average fatality and serious injury rates per 100,000,000 vehicle-miles-traveled within the urbanized area during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section has grown more slowly or declined, as compared to the average fatality and serious injury rates per 100,000,000 vehicle-miles-traveled within the urbanized area during the 3-year period beginning on January 1 of the fiscal year that was 6 years prior to the fiscal year in which the Secretary is making the grant under this section;

(B) the average annual number of serious injuries and fatalities within the urbanized area, as measured on a per capita basis, during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section has grown more slowly or declined, as compared to the average annual per capita number of serious injuries and fatalities within the urbanized area during the 3-year period beginning on January 1 of the fiscal year that was 6 years prior to the fiscal year in which the Secretary is making the grant under this section;

(C) the average annual number of fatalities within the urbanized area, as measured on a per capita basis, during the 3-year period beginning on January 1 of the fiscal year that was 3 years prior to the fiscal year in which the Secretary is making the grant under this section is less than  $\frac{1}{2}$  of the nationwide average annual per capita number of fatalities during that period; or

(D)(i) the performance targets set for the urbanized area under section 150(c)(4), in accordance with section 134(h)(2)(B)(i), in the most recently completed performance cycle prior to the year in which the Secretary is making the grant under this section demonstrate a reduction in the number and rate of serious injuries and fatalities; and

(ii) the urbanized area has met or exceeded the performance targets described in clause (i).

(4) SERIOUS INJURIES AND FATALITIES.—The term ‘serious injuries and fatalities’ means serious injuries and fatalities, as measured in accordance with the measures established under section 150(c)(4).

(b) FATALITY REDUCTION PERFORMANCE AND PLANNING RECOGNITION AWARDS.—

(1) IN GENERAL.—*The Secretary shall establish a competitive grant program to award grants to eligible entities in recognition of the achievement of the eligible entity in meeting the performance categories described in paragraph (3)(A).*

(2) ELIGIBLE ENTITIES.—*The Secretary shall distribute amounts under paragraph (1) to any of the following:*

(A) *A qualifying State.*

(B) *A qualifying unit of local government.*

(3) PERFORMANCE CATEGORIES.—

(A) IN GENERAL.—*The Secretary shall select eligible entities to receive a grant under paragraph (1) to recognize the achievement of the eligible entity in meeting any of the following performance categories:*

(i) *Significant progress in reducing serious injuries and fatalities, as measured on a per capita basis.*

(ii) *Significant progress in reducing the rates of serious injuries and fatalities per vehicle-mile traveled.*

(iii) *Having a per capita number of serious injuries and fatalities that is among the lowest of jurisdictions with comparable population and surface transportation system characteristics.*

(iv) *Having a per vehicle-mile traveled number of serious injuries and fatalities that is among the lowest of jurisdictions with comparable population and surface transportation system characteristics.*

(v) *Innovative safety planning efforts and implementation of plans leading to achievement with respect to the reduction of serious injuries and fatalities.*

(B) MERIT BASED DISTRIBUTION.—*In selecting among eligible entities to receive grants under paragraph (1) and the amounts of each of those grants, the Secretary shall give priority to eligible entities that have achieved the most significant levels of reduction in serious injuries and fatalities, as measured either on a per capita basis or per-vehicle mile traveled basis.*

(C) MULTIPLE AWARDS.—*The Secretary may—*

(i) *award a grant under paragraph (1) to multiple eligible entities for each performance category described in subparagraph (A); and*

(ii) *recognize achievements in each performance category described in subparagraph (A)—*

(I) *in urban and rural areas; and*

(II) *on the State and local level.*

(D) REPEAT AWARDS.—*The Secretary may not award a grant under this subsection to the same eligible entity more than once during a 2-year period.*

(4) AWARD AMOUNT.—*A grant under paragraph (1) shall be in an amount—*

(A) *not less than \$5,000,000; and*

(B) *not more than \$30,000,000.*

(5) ELIGIBLE USES.—*An eligible entity may use a grant under paragraph (1) for—*

- (A) an activity eligible under this title; or
- (B) a project—
  - (i) to maintain the condition of a Federal-aid highway, including routine maintenance; or
  - (ii) that—
    - (I) responds to a specific condition or event; and
    - (II) restores a Federal-aid highway to a functional state of operations.

(6) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), 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.

(7) FEDERAL SHARE.—The Federal share of the cost of a project carried out using a grant under paragraph (1) shall be, as determined at the discretion of the grant recipient, up to 100 percent.

#### § 174. 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.*

§ 175. *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 America's Transportation Infrastructure Act of 2019, 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;

(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 America's Transportation Infrastructure Act of 2019, 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 America’s Transportation Infrastructure Act of 2019; 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 America’s Transportation Infrastructure Act of 2019, 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.*

§ 176. *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 available 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.*

#### § 177. Formula carbon reduction incentive 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) FORMULA CARBON REDUCTION AWARDS.—

(1) IN GENERAL.—*For each fiscal year, the Secretary shall distribute among the States the amounts made available to carry out this section for that fiscal year in accordance with paragraph (2).*

(2) DISTRIBUTION.—*The amount for each State shall be determined by multiplying the total amount made available to carry out this section for the applicable fiscal year by the ratio that—*

(A) *the total base apportionment for the State under section 104(c); bears to*

(B) *the total base apportionments for all States under section 104(c).*

(c) EMISSIONS REDUCTION SUPPLEMENTAL.—

(1) IN GENERAL.—*A State shall use 50 percent of the amount distributed to the State under subsection (b) for each fiscal year to carry out activities under paragraph (2).*

(2) ELIGIBLE ACTIVITIES.—*Subject to paragraph (3), a State and any metropolitan planning organization that is required to obligate funds in accordance with subsection (e) shall use the*

funds under paragraph (1) for activities designed to reduce transportation emissions, including—

(A) a project described in paragraph (4), (5), (7), (8), or (11) of subsection (b) of section 149 or subsection (c)(2) of that section, regardless of whether the project—

(i) is located in an area designated as a nonattainment or maintenance area, as described in section 149(b); or

(ii) is likely to contribute to the attainment or maintenance in the area of a national ambient air quality standard;

(B) a project that is eligible for assistance under section 142;

(C) a project for the provision of facilities for pedestrians and bicyclists (including the conversion and use of rail corridors for pedestrian and bike trails);

(D) a project that is described in section 503(c)(4)(E);

(E) a project to reduce emissions from port-related equipment and vehicles;

(F) a project to replace street lighting and traffic control devices with energy efficient alternatives; and

(G) the development of a carbon reduction strategy under subsection (d)(1)(A).

(3) LIMITATION.—No funds provided under paragraph (1) may be used for a project that will result in the construction of new capacity available to single-occupant vehicles.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds under paragraph (1) shall be determined in accordance with section 120.

(d) CARBON REDUCTION STRATEGY PLANNING INCENTIVE.—

(1) CARBON REDUCTION STRATEGY.—

(A) IN GENERAL.—A State may, in consultation with a metropolitan planning organization within the State, develop a carbon reduction strategy.

(B) REQUIREMENTS.—If a State develops a carbon reduction strategy under subparagraph (A), the carbon reduction strategy shall—

(i) 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 on Federal-aid highways located within the State or the area served by the metropolitan planning organization, as applicable;

(II) to facilitate 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 metropolitan planning organization, if any;

(III) to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled; and

(IV) to facilitate approaches to transportation asset construction and maintenance that result in lower transportation emissions;

(ii) set targets for the reduction of transportation emissions and implementation of the projects and strategies identified under clause (i);

(iii) be appropriate to the population density and context of the State, including a metropolitan planning organization within the State, if any;

(iv) provide a reasonable opportunity for participation and review by interested parties within the State;

(v) be updated not less frequently than once every 3 years; and

(vi) be reviewed and certified by the Secretary to have met the requirements of this subparagraph.

(2) CARBON REDUCTION STRATEGY PLANNING INCENTIVE.—

(A) IN GENERAL.—A State shall use 50 percent of the amounts made available to the State under subsection (b) for each fiscal year for the eligible activities under subparagraph (B).

(B) ELIGIBLE ACTIVITIES.—

(i) IN GENERAL.—A State and any metropolitan planning organization in the State that is required to obligate funds in accordance with subsection (e) may use the funds under subparagraph (A) for a project or strategy described in subsection (c)(2).

(ii) ADDITIONAL ELIGIBILITY INCENTIVE.—In addition to the eligible activities under clause (i), a State and any metropolitan planning organization in the State that is required to obligate funds in accordance with subsection (e) may use the funds under subparagraph (A) for a project eligible under section 133(b) if—

(I) the State has, within the fiscal year prior to the fiscal year in which the Secretary is making the grant or by a deadline established by the Secretary in the fiscal year in which the Secretary is making the grant, developed a carbon reduction strategy under paragraph (1)(A) that has been approved by the Secretary under clause (vi) of that paragraph; or

(II) the State or metropolitan planning organization has, within the 4 fiscal years prior to the fiscal year in which the Secretary is making the grant or by a deadline established by the Secretary in the fiscal year in which the Secretary is making the grant, incorporated a carbon reduction strategy under paragraph (1)(A) into—

(aa) a long-range transportation plan developed by the metropolitan planning organization under section 134(c), if any; and

(bb) the long-range statewide transportation plan developed by the State under section 135(f)(1).

(C) FEDERAL SHARE.—*The Federal share of the cost of a project carried out using funds under subparagraph (A) shall be—*

*(i) in the case of a State or metropolitan planning organization within a State that meets the requirements under subparagraph (B)(ii), up to 100 percent, at the discretion of the State; and*

*(ii) in the case of a State or metropolitan planning organization within a State that is not described in clause (i), determined in accordance with section 120.*

(e) SUBALLOCATION REQUIREMENTS.—

(1) IN GENERAL.—*For each fiscal year, of the funds made available to a State under subsections (c) and (d)—*

*(A) 65 percent of each amount 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 over 200,000; and*

*(ii) in other areas of the State; 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 200,000 POPULATION.—

*(A) IN GENERAL.—Except as provided in subparagraph (B), the amount that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) 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) CONSULTATION IN URBANIZED AREAS.—*Before obligating funds for an eligible activity under subsection (c) or (d) in an urbanized area that is not a transportation management area, a State shall consult with any metropolitan planning organization that represents the urbanized area prior to determining which activities should be carried out.*

(5) CONSULTATION IN RURAL AREAS.—*Before obligating funds for an eligible activity under subsection (c) or (d) 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.*

§ 178. Carbon reduction performance 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) QUALIFYING STATE.—*The term ‘qualifying State’ means a State in which—*

(A) *the average annual transportation emissions within the State has grown more slowly or declined during the most recent 2-calendar year period for which data are available for transportation emissions at the time the Secretary is making the grant under this section, as compared to the 2-calendar year period that immediately precedes that period; or*

(B) *the average annual transportation emissions within the State, as estimated on a per capita basis, has grown more slowly or declined during the most recent 2-calendar year period for which data are available for transportation emissions at the time the Secretary is making the grant under this section, as compared to the 2-calendar year period that immediately precedes that period.*

(3) QUALIFYING UNIT OF LOCAL GOVERNMENT.—*The term ‘qualifying unit of local government’ means a unit of local government in an urbanized area served by a metropolitan planning organization, in which—*

(A) *the average annual transportation emissions within the urbanized area has grown more slowly or declined during the most recent 2-calendar year period for which data are available for transportation emissions at the time the Secretary is making the grant under this section, as compared to the 2-calendar year period that immediately precedes that period; or*

(B) *the average annual transportation emissions within the urbanized area, as estimated on a per capita basis, has grown more slowly or declined during the most recent 2-calendar year period for which data are available for transportation emissions at the time the Secretary is making the grant under this section, as compared to the 2-calendar year period that immediately precedes that period.*

(4) TRANSPORTATION EMISSIONS.—*The term ‘transportation emissions’ has the meaning given the term in section 177(a).*

(b) CARBON REDUCTION PERFORMANCE AND PLANNING RECOGNITION AWARDS.—

(1) IN GENERAL.—*The Secretary shall establish a competitive grant program to award grants to eligible entities in recognition of the achievement of the eligible entity in meeting the performance categories described in paragraph (3)(A).*

(2) ELIGIBLE ENTITIES.—*The Secretary shall distribute amounts under paragraph (1) to any of the following:*

(A) *A qualifying State.*

(B) *A qualifying unit of local government.*

(3) PERFORMANCE CATEGORIES.—

(A) IN GENERAL.—*The Secretary shall select eligible entities to receive a grant under paragraph (1) to recognize the*

achievement of the eligible entity in meeting any of the following performance categories:

(i) A significant reduction in transportation emissions, as estimated on a per unit of economic output basis.

(ii) A significant reduction in transportation emissions, as estimated on a per capita basis.

(iii) Transportation emissions, as estimated on a per unit of economic output basis, that are among the lowest of jurisdictions with comparable population and surface transportation system characteristics.

(iv) Transportation emissions, as estimated on a per capita basis, that are among the lowest of jurisdictions with comparable population and surface transportation system characteristics.

(v) Innovative planning efforts and the implementation of a carbon reduction strategy under section 177(d)(1)(A) or plans that lead to a reduction in transportation emissions.

(B) MERIT BASED DISTRIBUTION.—In selecting among eligible entities to receive grants under paragraph (1) and the amount of each of those grants, the Secretary shall give priority to eligible entities that have achieved the most significant levels of reductions of transportation emissions, as estimated on either a per unit of economic basis or on a per capita basis.

(C) MULTIPLE AWARDS.—The Secretary may—

(i) award a grant under paragraph (1) to multiple eligible entities for each performance category described in subparagraph (A); and

(ii) recognize achievements in each performance category described in subparagraph (A)—

(I) in urban and rural areas; and

(II) on the State and local level.

(D) REPEAT AWARDS.—The Secretary may not award a grant under this subsection to the same eligible entity more than once in a 2-year period.

(4) AWARD AMOUNT.—A grant under paragraph (1) shall be in an amount—

(A) not less than \$5,000,000; and

(B) not more than \$30,000,000.

(5) ELIGIBLE USES.—An eligible entity may use a grant under paragraph (1) for—

(A) an activity eligible under this title; and

(B) a project—

(i) to maintain the condition of a Federal-aid highway, including routine maintenance; or

(ii) that—

(I) responds to a specific condition or event; and

(II) restores a Federal-aid highway to a functional state of operations.

(6) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), 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.*

(7) FEDERAL SHARE.—*The Federal share of the cost of a project carried out using a grant under paragraph (1) shall be, as determined at the discretion of the grant recipient, up to 100 percent.*

\* \* \* \* \*

§ 179. *Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant 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 or a private entity;*

*(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 grant 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 grant program, to be known as the ‘Promoting Resilient Operations for*

*Transformative, Efficient, and Cost-saving Transportation grant program' or the 'PROTECT grant program'.*

(2) PURPOSE.—*The purpose of the program is to provide grants for resilience improvements through—*

(A) *formula funding distributed to States;*

(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 infrastructure improvements and emergency response strategies to address those vulnerabilities; and*

(C) *competitive resilience improvement grants to protect—*

(i) *infrastructure 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, 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) FORMULA AWARDS.—

(1) DISTRIBUTION OF FUNDS TO STATES.—

(A) IN GENERAL.—*For each fiscal year, the Secretary shall distribute among the States the amounts made available to carry out this subsection for that fiscal year in accordance with subparagraph (B).*

(B) DISTRIBUTION.—*The amount for each State shall be determined by multiplying the total amount made available to carry out this subsection for the applicable fiscal year by the ratio that—*

(i) *the total base apportionment for the State under section 104(c); bears to*

(ii) *the total base apportionments for all States under section 104(c).*

(2) ELIGIBLE ACTIVITIES.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), a State shall use funds made available under paragraph (1) to carry out activities eligible under subparagraph (A), (B), or (C) of subsection (d)(4).*

(B) PLANNING SET-ASIDE.—*Of the amounts made available to each State under paragraph (1) 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 made available under paragraph (1) 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.*

(C) SYSTEM RESILIENCE.—*A project carried out by a State with funds made available under this subsection 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 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.*

(D) FEDERAL COST SHARE.—

*(i) IN GENERAL.—Except as provided in subsection (f)(1), the Federal share of the cost of a project carried out using funds made available under paragraph (1) shall not exceed 80 percent of the total project cost.*

*(ii) NON-FEDERAL SHARE.—A State may use Federal funds other than Federal funds made available under*

*this subsection 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 made available under paragraph (1) 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 made available under paragraph (1), 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.**—*In carrying out this subsection, a State—*

*(i) may use not more than 25 percent of the amounts made available under this subsection for the construction of new capacity; and*

*(ii) may use not more than 10 percent of the amounts made available under this subsection for activities described in subparagraph (E)(i)(I).*

**(d) COMPETITIVE AWARDS.—**

**(1) IN GENERAL.**—*In addition to funds distributed to States under subsection (c)(1), the Secretary shall provide grants on a competitive basis under this subsection to eligible entities described in paragraph (2).*

**(2) ELIGIBLE ENTITIES.**—*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 (f)(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 infrastructure 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 enable an existing surface transportation infrastructure asset to withstand 1 or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, 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 Federal Highway Administration approved design standards;

(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) a resilience project that addresses identified vulnerabilities described in the resilience improvement plan of the eligible entity, if applicable;

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

(hh) stabilizing slide areas or slopes;

(ii) installing riprap;

(jj) lengthening or raising bridges to increase waterway openings, including to respond to extreme weather;

(kk) deepening channels to prevent flooding;

(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; and

(pp) 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 infrastructure 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 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 (f)(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 Secretary determines 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—

(aa) new or redundant evacuation routes, if the Secretary determines that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources; or

(bb) sheltering facilities that are functionally connected to an eligible project;

(V) is for the acquisition of evacuation route or traffic incident management equipment, vehicles, 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 shall consult with the Admin-

istrator of the Federal Emergency Management Agency, who shall provide technical assistance to the Secretary and to eligible entities.

(C) AT-RISK COASTAL INFRASTRUCTURE GRANTS.—

(i) DEFINITION OF COASTAL STATE.—*In this subparagraph, the term ‘coastal State’ means—*

(I) *a State 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) *the United States Virgin Islands;*

(III) *Guam;*

(IV) *American Samoa; and*

(V) *the Commonwealth of the Northern Mariana Islands.*

(ii) GRANTS.—*Using funds made available under this subsection, the Secretary shall provide at-risk coastal infrastructure grants to eligible entities in coastal States 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, 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 (f)(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.—*An eligible entity that receives a grant under subparagraph (A), (B), or (C) of paragraph (4)—*

(i) may use not more than 25 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).

(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.

(e) CONSULTATION.—In carrying out the program, the Secretary shall—

(1) 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

(2) solicit technical support from the Administrator of the Federal Emergency Management Agency.

(f) RESILIENCE IMPROVEMENT PLAN AND LOWER NON-FEDERAL SHARE.—

(1) FEDERAL SHARE REDUCTIONS.—

(A) IN GENERAL.—A State that receives funds under subsection (c) 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 under subsection (c) 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;

(B) shall demonstrate a systemic approach to 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—

(i) 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;

(ii) designate evacuation routes and strategies, including multimodal facilities, designated with consideration for individuals without access to personal vehicles;

(iii) 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;

(iv) 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;

(v) include an investment plan that—

(I) includes a list of priority projects; and

(II) describes how funds provided by a grant under the program would be invested and matched, which shall not be subject to fiscal constraint requirements; and

(vi) use science and data and indicate the source of data and methodologies; and

(D) 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 infrastructure 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 manage-

ment assets, and energy, water, and communication infrastructure;

(v) use a long-term planning period; and

(vi) include such other information as the eligible entity 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.*

(g) MONITORING.—

(1) IN GENERAL.—*Not later than 18 months after the date of enactment of this section, the Secretary, in consultation with the officials described in subsection (e), shall—*

(A) *establish, for the purpose of evaluating the effectiveness and impacts of projects carried out under the program—*

(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.*

(h) REPORTS.—

(1) REPORTS FROM ELIGIBLE ENTITIES.—*Not later than 1 year after the date on which a project carried out under the program is completed, the 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 received under the program.*

(2) REPORTS TO CONGRESS.—

(A) ANNUAL REPORTS.—*The Secretary shall submit to Congress, 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 the program;*

(ii) *information relating to project applications received;*

(iii) *the manner in which the consultation requirements were implemented under this section;*

(iv) *recommendations to improve the administration of the program, including whether assistance from ad-*

ditional or fewer agencies to carry out the program is appropriate;

(v) the period required to disburse grant funds to recipients 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 America's Transportation Infrastructure Act of 2019, the Secretary shall submit to Congress a report that includes the results of the reports submitted under subparagraph (A).

(i) ADMINISTRATIVE EXPENSES.—The Secretary shall use not more than 5 percent of the amounts made available to carry out the program for each fiscal year for the costs of administering the program, including monitoring and evaluation under subsection (g).

\* \* \* \* \*

## CHAPTER 2—OTHER HIGHWAYS

### § 201. Federal lands and tribal transportation programs

(a) PURPOSE.— \* \* \*

\* \* \* \* \*

(c) TRANSPORTATION PLANNING.—

(1) TRANSPORTATION PLANNING PROCEDURES.— \* \* \*

\* \* \* \* \*

(6) DATA COLLECTION.—

(A) DATA COLLECTION.—

\* \* \* \* \*

(ii) REQUIREMENT.—Data collected to implement the tribal transportation program shall be 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.).

\* \* \* \* \*

(e) TRANSFERS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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 sections 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.— \* \* \*

\* \* \* \* \*

(10) COMPETITIVE BIDDING.—

(A) CONSTRUCTION.— \* \* \*

\* \* \* \* \*

(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.—

\* \* \* \* \*

(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.), if the Indian tribal government—*

\* \* \* \* \*

(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 Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450 et seq.)] (25 U.S.C. 5301 et seq.).

\* \* \* \* \*

(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.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

\* \* \* \* \*

(F) ELIGIBILITY.—

(i) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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.) 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.).

(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.).

(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.), 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.

\* \* \* \* \*

(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.).

\* \* \* \* \*

(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] (25 U.S.C. 5301 et seq.).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.

\* \* \* \* \*

(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).

\* \* \* \* \*

**§ 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) \* \* \*

\* \* \* \* \*

(B) capital, operations, and maintenance of transit facilities; and

(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

(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).

\* \* \* \* \*

(5) COMPETITIVE BIDDING.— \* \* \*

\* \* \* \* \*

(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the entity carrying out the activity shall consider—

(A) *the use of locally adapted native plant materials; and*  
 (B) *designs that minimize runoff and heat generation.*

\* \* \* \* \*

**§ 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;*

\* \* \* \* \*

(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;

\* \* \* \* \*

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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—*

(A) *the use of locally adapted native plant materials; and*

(B) *designs that minimize runoff and heat generation.*

\* \* \* \* \*

**§ 206. Recreational trails program**

(a) DEFINITIONS.— \* \* \*

\* \* \* \* \*

(d) USE OF APPORTIONED FUNDS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

(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

\* \* \* \* \*

### § 207. Tribal transportation self-governance program

(a) ESTABLISHMENT.— \* \* \*

\* \* \* \* \*

(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), other 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)).

\* \* \* \* \*

(l) 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), 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), 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), relating to transfer of funds.

(4) Section 510 of such Act [(25 U.S.C. 458aaa-9)] (25 U.S.C. 5390), relating to Federal procurement laws and regulations.

(5) Section 511 of such Act [(25 U.S.C. 458aaa-10)] (25 U.S.C. 5391), 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), 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), 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), relating to application of title I provisions.

(9) Section 518 of such Act [(25 U.S.C. 458aaa-17)] (25 U.S.C. 5398), 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 of the Indian Self-Determination and Education Assistance Act [(25 U.S.C. 450b; 458aaa)] (25 U.S.C. 5304; 5381). apply, except as otherwise expressly provided in this section.

**§ 217. Bicycle transportation and pedestrian walkways**

(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.— \* \* \*

\* \* \* \* \*

(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 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.

\* \* \* \* \*

**[§ 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 America's Transportation Infrastructure Act of 2019) 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.*

\* \* \* \* \*



### CHAPTER 3—GENERAL PROVISIONS

- Sec. \* \* \* \* \*
301. Freedom from tolls.  
\* \* \* \* \*
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. *Department of Transportation reports.*



\* \* \* \* \*

**§ 301. Freedom from tolls**

\* \* \* \* \*

**§ 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.—T \* \* \*

\* \* \* \* \*

### § 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—

\* \* \* \* \*

### § 330. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.— \* \* \*

\* \* \* \* \*

### § 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. Department of Transportation reports

(a) DEFINITION OF DASHBOARD.—In this section, the term ‘Dashboard’ has the meaning given the term in section 41001 of the FAST Act (42 U.S.C. 4370m).

(b) REPORTS.—Not later than January 31 of each year, 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 with respect to any projects, programs, or authorities under this title (other than chapter 4) that includes—

(1) for the preceding fiscal year—

(A) the median time described in subsection (c)(1) posted on the Dashboard for projects described in subsection (c)(2);

(B) a list of any new categorical exclusions adopted by the Department and listed under section 771.117 of title 23, Code of Federal Regulations (or successor regulations); and

(C) a list of all regulatory requirements that have been removed or reduced and, if available, a summary of the cost savings resulting from the removal or reduction to—

(i) States;

- (ii) units of Tribal and local government; and  
 (iii) the public; and  
 (2) for the current fiscal year—  
 (A) an estimate or documentation of the median time elapsed between—  
 (i) the date of the publication in the Federal Register of a notice of intent to prepare an environmental impact statement; and  
 (ii) the date of the record of decision with respect to that environmental impact statement by the Department; and  
 (B) if available, a summary of the cost savings, including cost savings to States, units of Tribal and local government, and the public, resulting from the removal or reduction of regulatory requirements.
- (c) FEDERAL PERMITTING DASHBOARD.—  
 (1) IN GENERAL.—Not later than January 31 of each year, the Secretary shall provide to the Executive Director of the Federal Permitting Improvement Steering Council established under section 41002(a) of the FAST Act (42 U.S.C. 4370m–1(a)), to make available on the Dashboard, with respect to projects described in paragraph (2), the median time elapsed between—  
 (A) the publication in the Federal Register of the notice of intent to prepare an environmental impact statement; and  
 (B) the date of issuance of the record of decision with respect to that environmental impact statement by the Department of Transportation.
- (2) PROJECTS DESCRIBED.—A project referred to in paragraph (1) is a project for which—  
 (A) a record of decision for an environmental impact statement was issued during the preceding fiscal year; and  
 (B) the Department of Transportation is a lead agency (as defined in section 139).

\* \* \* \* \*

## CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

\* \* \* \* \*

### § 501. Definitions

In this chapter, the following definitions apply:

- (1) FEDERAL LABORATORY.— \* \* \*

\* \* \* \* \*

### § 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 stra-

tegic 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[.];

(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.—\* \* \*

\* \* \* \* \*

(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<sup>[.]</sup>; *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<sup>[.]</sup>; *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) \* \* \*

\* \* \* \* \*

(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<sup>[.]</sup>; *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) IN GENERAL.—\* \* \*

\* \* \* \* \*

## (B) ACCELERATED INNOVATION DEPLOYMENT.—\* \* \*

\* \* \* \* \*

(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.*

\* \* \* \* \*

(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.—\* \* \*

\* \* \* \* \*

## (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 America’s Transportation Infrastructure Act of 2019, 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 2021 through 2025* from funds made available to carry out this subsection \$12,000,000 to accelerate the deployment and implementation of pavement technology.

**[(D)] (E) 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 AND INNOVATIVE MOBILITY 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.]

*(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;

\* \* \* \* \*

(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]**

(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*

**[(viii)]** (x) accelerate the deployment of vehicle-to-vehicle, vehicle-to-infrastructure, autonomous vehicles, and other technologies.

(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.

(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.*

\* \* \* \* \*

(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; or

[(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.

(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) deployment and operational costs of the project compared to the benefits and savings the project provides; and

(ii)\* \* \*

\* \* \* \* \*

(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.—\* \* \*

\* \* \* \* \*

(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 2021 through 2025.

\* \* \* \* \*

(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 multijuris-

dictional group or a consortia of research institutions or academic institutions.

\* \* \* \* \*

(iii) MULTIJURISDICTIONAL GROUP.—The term “multi-jurisdictional 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—

\* \* \* \* \*

(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 2021 through 2025, 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 America’s Transportation Infrastructure Act of 2019, 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) \* \* \*

\* \* \* \* \*

(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;

\* \* \* \* \*

(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

\* \* \* \* \*

(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.— \* \* \*

\* \* \* \* \*

(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 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.*

\* \* \* \* \*

(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) \* \* \*

\* \* \* \* \*

(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 ter-*

*restrial 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.— \* \* \*

\* \* \* \* \*

(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

\* \* \* \* \*

**CHAPTER 6—INFRASTRUCTURE FINANCE**

\* \* \* \* \*

**§ 601. Generally applicable provisions**

(a) DEFINITIONS.—The following definitions apply to sections 601 through 609:

(1) ADMINISTRATIVELY ALLOCATED.—*The term ‘administratively allocated’ means the allocation by the Secretary of budget authority for a project under the TIFIA program that occurs when—*

- (A) *a potential applicant has been invited into the credit-worthiness phase for a project under the TIFIA program; or*
- (B) *the project is subject to a master credit agreement, in accordance with section 602(b)(2).*

[(1)] (2) CONTINGENT COMMITMENT.— \* \* \*

\* \* \* \* \*

[(2)] (3) ELIGIBLE PROJECT COSTS.— \* \* \*

\* \* \* \* \*

[(3)] (4) FEDERAL CREDIT INSTRUMENT.—The term “Federal credit instrument” means a secured loan, loan guarantee, or line of credit authorized to be made available under the TIFIA program with respect to a project.

[(4)] (5) INVESTMENT-GRADE RATING.— \* \* \*

\* \* \* \* \*

[(5)] (6) LENDER.— \* \* \*

\* \* \* \* \*

[(6)] (7) LETTER OF INTEREST.— \* \* \*

\* \* \* \* \*

[(7)] (8) LINE OF CREDIT.— \* \* \*

\* \* \* \* \*

[(8)] (9) LIMITED BUYDOWN.— \* \* \*

\* \* \* \* \*

[(9)] (10) LOAN GUARANTEE.— \* \* \*

\* \* \* \* \*

[(10)] (11) 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.

[(11)] (12) OBLIGOR.— \* \* \*

\* \* \* \* \*

[(12)] (13) 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, 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; 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, 2025, 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~~...~~ ;

(G) an eligible airport-related project (as defined in section 40117(a) of title 49) for which, not later than September 30, 2024, 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.

- [(13)] (14) PROJECT OBLIGATION.— \* \* \*
- \* \* \* \* \*
- [(14)] (15) RATING AGENCY.— \* \* \*
- \* \* \* \* \*
- [(15)] (16) RURAL INFRASTRUCTURE PROJECT.— \* \* \*
- \* \* \* \* \*
- [(16)] (17) RURAL PROJECTS FUND.— \* \* \*
- \* \* \* \* \*
- [(17)] (18) SECURED LOAN.— \* \* \*
- \* \* \* \* \*
- [(18)] (19) STATE.— \* \* \*
- \* \* \* \* \*
- [(19)] (20) STATE INFRASTRUCTURE BANK.— \* \* \*
- \* \* \* \* \*
- [(20)] (21) SUBSIDY AMOUNT.— \* \* \*
- \* \* \* \* \*
- [(21)] (22) SUBSTANTIAL COMPLETION.— \* \* \*
- \* \* \* \* \*

[(22)] (23) TIFIA PROGRAM.— \* \* \*  
 \* \* \* \* \*

**§ 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 creditworthiness 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.

\* \* \* \* \*

(5) ELIGIBLE PROJECT COST PARAMETERS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) EXCEPTIONS.—

(i) INTELLIGENT TRANSPORTATION SYSTEMS.— \* \* \*

\* \* \* \* \*

(ii) TRANSIT-ORIENTED DEVELOPMENT PROJECTS.—In the case of a project described in section **[601(a)(12)(E)] section 601(a)(13)(E)**, eligible project costs shall be reasonably anticipated to equal or exceed \$10,000,000.

\* \* \* \* \*

(10) PROJECT READINESS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(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.

\* \* \* \* \*

(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 section [601(a)(1)(A)] *section 601(a)(3)(A)*.

\* \* \* \* \*

**§ 603. Secured loans**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) REPAYMENT.—

(1) SCHEDULE.— \* \* \*

\* \* \* \* \*

(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 America's Transportation Infrastructure Act of 2019, 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.— \* \* \*

\* \* \* \* \*

(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 disapproved 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 creditworthiness 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.— \* \* \*

\* \* \* \* \*

(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)(13)(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)(13)(G)—*

*(i) for each fiscal year, not more than 15 percent of the amounts made available to carry out the TIFIA program under the America's Transportation Infrastructure Act of 2019 for that fiscal year; and*

*(ii) for the period of fiscal years 2021 through 2025, not more than 15 percent of the unobligated carryover balances (as of October 1, 2020) made available to carry out the TIFIA program, less the total amount administratively allocated by the Secretary as of that date.*

**[(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 2021 through 2025 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.— \* \* \*

\* \* \* \* \*

(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 2021 through 2025 under each of paragraphs (1), (2), and (5) of section 104(b); and*

*(B) 10 percent of the funds allocated to the State for each of such fiscal years.*

(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 2021 through 2025* 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 2021 through 2025* for capital projects under such subtitle.

\* \* \* \* \*

(k) PROGRAM ADMINISTRATION.—For each of [fiscal years 2016 through 2020] *fiscal years 2021 through 2025*, 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, UNITED STATES CODE**

\* \* \* \* \*

**TITLE 40—PUBLIC BUILDINGS,  
PROPERTY, AND WORKS**

\* \* \* \* \*

**SUBTITLE IV—APPALACHIAN REGIONAL  
DEVELOPMENT**

**CHAPTER 141—GENERAL PROVISIONS**

**§ 14101. Findings and purposes**

(a) 1965 FINDINGS AND PURPOSE.— \* \* \*

\* \* \* \* \*

**§ 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.

**SUBTITLE IV—APPALACHIAN REGIONAL  
DEVELOPMENT**

**CHAPTER 143—APPALACHIAN REGIONAL COMMISSION**

**§ 14301. Establishment, membership, and employees**

(a) ESTABLISHMENT.—There is an Appalachian Regional Commission.

(b) MEMBERSHIP.—

(1) FEDERAL AND STATE MEMBERS.— \* \* \*

\* \* \* \* \*

(2) ALTERNATE MEMBERS.—Each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The ~~President,~~ *President* shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the member for whom the individual is an alternate. ~~[A state alternate shall not be counted toward the establishment of a quorum of the Commission when a quorum of the state members is required.]~~

\* \* \* \* \*

(c) COMPENSATION.—The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5. The Federal Cochairman's alternate shall be compensated by the Government at level V of the Executive Schedule as set out in section 5316 of title 5. Each state member and alternate shall be compensated by the State which they represent at the rate established by law of that State.

(d) DELEGATION.—

(1) POWERS AND RESPONSIBILITIES.—Commission powers and responsibilities specified in ~~[section 14302(c) and (d)]~~ *subsections (a) and (c) of section 14302* of this title, and the vote of any Commission member, may not be delegated to an individual who is not a Commission member or who is not entitled to vote in Commission meetings.

(2) ALTERNATE FEDERAL COCHAIRMAN.—The alternate to the Federal Cochairman shall perform the functions and duties the Federal Cochairman delegates when not actively serving as the alternate.

\* \* \* \* \*

**§ 14302. Decisions**

(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 14306(d) of this title, decisions by the Appalachian Regional Commission *involving Appalachian Regional Commission policy, the approval of State, regional, or subregional development plans or strategy statements, the modification or revision of the Appalachian Regional Commission Code, the allocation of amounts among the States, or designation of a distressed county, an at-risk county, or an economically strong county* require the affirmative vote of the

Federal Cochairman and of a majority of the state members, exclusive of members representing States delinquent under section 14306(d).

(b) CONSULTATION.— \* \* \*

\* \* \* \* \*

[(c) DECISIONS REQUIRING QUORUM OF STATE MEMBERS.—A decision involving Commission policy, approval of state, regional or subregional development plans or strategy statements, modification or revision of the Appalachian Regional Commission Code, allocation of amounts among the States, or designation of a distressed county or an economically strong county shall not be made without a quorum of state members.]

[(d)] (c) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals is a responsibility of the Commission and shall be carried out in accordance with section 14322 of this title.

\* \* \* \* \*

**[§ 14307. Meetings**

[(a) IN GENERAL.—The Appalachian Regional Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the state members present.

[(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—The Commission may conduct additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.]

*§ 14307. Meetings*

*The Appalachian Regional Commission may conduct meetings by electronic means as the Appalachian Regional Commission considers advisable, including meetings to decide matters requiring an affirmative vote.*

\* \* \* \* \*

**SUBTITLE IV—APPALACHIAN REGIONAL DEVELOPMENT**

**CHAPTER 145—SPECIAL APPALACHIAN PROGRAMS**

SUBCHAPTER I—PROGRAMS

Sec.

14501. Appalachian development highway system.

\* \* \* \* \*

14510. Drug abuse mitigation initiative.

14511. Appalachian regional energy hub initiative.



\* \* \* \* \*

SUBCHAPTER I—PROGRAMS

§ 14501. Appalachian development highway system

(a) PURPOSE.— \* \* \*

\* \* \* \* \*

§ 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 storage and associated pipelines.*

(b) 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 made available to carry out this section;*

*(2) 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 made available to carry out this section; and*

*(3) in the case of a project 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.

\* \* \* \* \*

**SUBTITLE IV—APPALACHIAN REGIONAL DEVELOPMENT**

**CHAPTER 147—MISCELLANEOUS**

\* \* \* \* \*

**§ 14701. Applicable labor standards**

\* \* \* \* \*

**§ 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 2020.] through 2020; and

(6) \$180,000,000 for each of fiscal years 2021 through 2025.

\* \* \* \* \*

(c) HIGH-SPEED BROADBAND DEPLOYMENT INITIATIVE.—Of the amounts made available under subsection (a), [\$10,000,000] \$20,000,000 may be used to carry out section 14509 for each of fiscal years 2016 through [2020] 2025.

(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 2021 through 2025.

[(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, [2020] 2025.

\* \* \* \* \*

**TITLE 49, UNITED STATES CODE —  
TRANSPORTATION**

\* \* \* \* \*

CHAPTER 1 OF TITLE 49, UNITED STATES CODE

\* \* \* \* \*

**CHAPTER 1—ORGANIZATION**

**§ 102. Department of Transportation**

(a) \* \* \*

\* \* \* \* \*

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has **[6 Assistant]** 7 Assistant Secretaries and a General Counsel, including—

(A) \* \* \*

\* \* \* \* \*

(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 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[.];

(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, water runoff, and wildlife habitat loss resulting from freight facilities, freight vehicles, or freight activity.

\* \* \* \* \*

**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.— \* \* \***

- \* \* \* \* \*
- (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; and.

\* \* \* \* \*

**§ 70202. State freight plans**

(a) IN GENERAL.—Each State that receives funding under section 167 of title 23 shall develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight.

(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 on local air pollution;
- (C) the impacts of freight on flooding, water runoff, and other adverse water impacts; and
- (D) the impacts of freight on wildlife habitat loss;

(12) strategies and goals to decrease the adverse impact of freight transportation on communities traversed by freight railroads; and

[(10)] (13) 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.— \* \* \*

\* \* \* \* \*

**Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)**

\* \* \* \* \*

Subtitle D—Highway Safety

**SEC. 1404. [23 U.S.C. 402 note] SAFE ROUTES TO SCHOOL PROGRAM.**

(a) 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 and middle] primary, middle, and high schools.

\* \* \* \* \*

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) IN THE VICINITY OF SCHOOLS.— \* \* \*

\* \* \* \* \*

(2) **Primary and middle** PRIMARY, MIDDLE, AND HIGH schools.—The term “**primary and middle** *primary, middle, and high* schools” means schools providing education from kindergarten through **eighth grade** *12th grade*.

\* \* \* \* \*

**MAP-21**

\* \* \* \* \*

**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”.

\* \* \* \* \*

**DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS**

**TITLE I—FEDERAL-AID HIGHWAYS**

**Subtitle A—Authorizations and Programs**

\* \* \* \* \*

**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 2021 through 2025, 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 2021 through 2025.*

**[(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 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 2021 through 2025*, 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 (FAST 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

\* \* \* \* \*

Subtitle D—Miscellaneous

Sec. 1401. Prohibition on the use of funds for automated traffic enforcement.

\* \* \* \* \*

Sec. 1438. [Adjustments.]

\* \* \* \* \*

TITLE VI—INNOVATION

Sec. 6001. Short title.

Sec. 6002. Authorization of appropriations.

\* \* \* \* \*

Sec. 6020. [Surface transportation system funding alternatives.]

\* \* \* \* \*

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

\* \* \* \* \*

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

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

**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 under 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. 1401. PROHIBITION ON THE USE OF FUNDS FOR AUTOMATED TRAFFIC ENFORCEMENT.

(a) PROHIBITION.— \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

TITLE VI—INNOVATION

\* \* \* \* \*

**SEC. 6001. [23 U.S.C. 101 note] SHORT TITLE.**

This title may be cited as the “Transportation for Tomorrow Act of 2015”.

**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 2021 through 2025* to carry out this section.

\* \* \* \* \*

DIVISION D—MISCELLANEOUS

TITLE XLI—FEDERAL PERMITTING IMPROVEMENT

\* \* \* \* \*

**SEC. 41001. [42 U.S.C. 4370m note] DEFINITIONS.**

In this title:

(1) AGENCY.— \* \* \*

\* \* \* \* \*

(6) COVERED PROJECT.—

(A) IN GENERAL.—The term “covered project” means any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, *carbon capture*, or any other sector as determined by a majority vote of the Council that—

- (i)(I) is subject to NEPA;
- (II) is likely to require a total investment of more than \$200,000,000; and
- (III) does not qualify for abbreviated authorization or environmental review processes under any applicable law; [or]

*(ii) is covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines; or*

[(i)] *(iii) is subject to NEPA and the size and complexity of which, in the opinion of the Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—*

\* \* \* \* \*

(B) EXCLUSION.— \* \* \*

\* \* \* \* \*

(C) INCLUSION.—For purposes of subparagraph (A), construction of infrastructure for carbon capture includes construction of—

- (i) any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture (as defined in paragraph (6)(B)(i) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g)); and
- (ii) carbon dioxide pipelines.

\* \* \* \* \*

**CLEAN AIR ACT**

\* \* \* \* \*

**TITLE I—AIR POLLUTION PREVENTION AND CONTROL**

**PART A—AIR QUALITY AND EMISSION LIMITATIONS**

**FINDINGS AND PURPOSES**

SEC. 101. (a) \* \* \*

\* \* \* \* \*

SEC. 103. (a) The Administrator shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

\* \* \* \* \*

(c) AIR POLLUTANT MONITORING, ANALYSIS, MODELING, AND INVENTORY RESEARCH.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

(1) \* \* \*

\* \* \* \* \*

(3) Development of improved methods and technologies for sampling, measurement, monitoring, analysis, and modeling to increase understanding of the sources of ozone [precursors] precursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

\* \* \* \* \*

(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—[In carrying out]

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate non-regulatory strategies and technologies for air pollution prevention. [Such strategies and technologies shall be developed]

(2) PARTICIPATION REQUIREMENT.—Such strategies and technologies described in paragraph (1) shall be developed; with priority on those pollutants which pose a significant risk to

human health and the environment, and with opportunities for participation by industry, public interest groups, scientists, States, institutions of higher education, and other interested persons in the development of such strategies and technologies.

**【Such program】**

(3) PROGRAM INCLUSIONS.—*The program under this subsection shall include the following elements:*

**【(1)】**

(A) Improvements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants. Such strategies and technologies shall include improvements in the relative cost effectiveness and long-range implications of various air pollutant reduction and nonregulatory control strategies such as energy conservation, including end-use efficiency, and fuel-switching to cleaner fuels. Such strategies and technologies shall be considered for existing and new facilities.

**【(2)】**

(B) Improvements in nonregulatory strategies and technologies for reducing air emissions from area sources.

**【(3)】**

(C) Improvements in nonregulatory strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

**【(4)】**

(D) Improvements in nonregulatory strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

**【Nothing】**

(4) EFFECT OF SUBSECTION.—*Nothing* in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. **【The Administrator】**

(5) COORDINATION AND AVOIDANCE OF DUPLICATION.—*The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.*

(6) CERTAIN CARBON DIOXIDE ACTIVITIES.—

“(A) IN GENERAL.—*In carrying out paragraph (3)(A) with respect to carbon dioxide, the Administrator shall carry out the activities described in each of subparagraphs (B), (C), (D), and (E).*

(B) DIRECT AIR CAPTURE RESEARCH.—

(i) DEFINITIONS.—*In this subparagraph:*

(I) BOARD.—*The term ‘Board’ means the Direct Air Capture Technology Advisory Board established by clause (iii)(I).*

(II) DILUTE.—*The term ‘dilute’ means a concentration of less than 1 percent by volume.*

(III) DIRECT AIR CAPTURE.—

(aa) IN GENERAL.—*The term ‘direct air capture’, with respect to a facility, technology, or*

system, means that the facility, technology, or system uses carbon capture equipment to capture carbon dioxide directly from the air.

(bb) EXCLUSION.—The term ‘direct air capture’ does not include any facility, technology, or system that captures carbon dioxide—

(AA) that is deliberately released from a naturally occurring subsurface spring; or

(BB) using natural photosynthesis.

(IV) INTELLECTUAL PROPERTY.—The term ‘intellectual property’ means—

(aa) an invention that is patentable under title 35, United States Code; and

(bb) any patent on an invention described in item (aa).

(ii) TECHNOLOGY PRIZES.—

(I) IN GENERAL.—Not later than 1 year after the date of enactment of the America’s Transportation Infrastructure Act of 2019, the Administrator, in consultation with the Secretary of Energy, shall establish a program to provide, and shall provide, financial awards on a competitive basis for direct air capture from media in which the concentration of carbon dioxide is dilute.

(II) DUTIES.—In carrying out this clause, the Administrator shall—

(aa) subject to subclause (III), develop specific requirements for—

(AA) the competition process; and

(BB) the demonstration of performance of approved projects;

(bb) offer financial awards for a project designed—

(AA) to the maximum extent practicable, to capture more than 10,000 tons of carbon dioxide per year; and

(BB) to operate in a manner that would be commercially viable in the foreseeable future (as determined by the Board); and

(cc) to the maximum extent practicable, make financial awards to geographically diverse projects, including at least—

(AA) 1 project in a coastal State; and

(BB) 1 project in a rural State.

(III) PUBLIC PARTICIPATION.—In carrying out subclause (II)(aa), the Administrator shall—

(aa) provide notice of and, for a period of not less than 60 days, an opportunity for public comment on, any draft or proposed version of the requirements described in subclause (II)(aa); and

(bb) take into account public comments received in developing the final version of those requirements.

(iii) DIRECT AIR CAPTURE TECHNOLOGY ADVISORY BOARD.—

(I) ESTABLISHMENT.—*There is established an advisory board to be known as the 'Direct Air Capture Technology Advisory Board'.*

(II) COMPOSITION.—*The Board shall be composed of 9 members appointed by the Administrator, who shall provide expertise in—*

*(aa) climate science;*

*(bb) physics;*

*(cc) chemistry;*

*(dd) biology;*

*(ee) engineering;*

*(ff) economics;*

*(gg) business management; and*

*(hh) such other disciplines as the Administrator determines to be necessary to achieve the purposes of this subparagraph.*

(III) TERM; VACANCIES.—

(aa) TERM.—*A member of the Board shall serve for a term of 6 years.*

(bb) VACANCIES.—*A vacancy on the Board—*

*(AA) shall not affect the powers of the Board; and*

*(BB) shall be filled in the same manner as the original appointment was made.*

(IV) INITIAL MEETING.—*Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold the initial meeting of the Board.*

(V) MEETINGS.—*The Board shall meet at the call of the Chairperson or on the request of the Administrator.*

(VI) QUORUM.—*A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.*

(VII) CHAIRPERSON AND VICE CHAIRPERSON.—*The Board shall select a Chairperson and Vice Chairperson from among the members of the Board.*

(VIII) COMPENSATION.—*Each member of the Board may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Board.*

(IX) DUTIES.—*The Board shall advise the Administrator on carrying out the duties of the Administrator under this subparagraph.*

(X) FACIA.—*The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Board.*

(iv) INTELLECTUAL PROPERTY.—

(I) IN GENERAL.—As a condition of receiving a financial award under this subparagraph, an applicant shall agree to vest the intellectual property of the applicant derived from the technology in 1 or more entities that are incorporated in the United States.

(II) RESERVATION OF LICENSE.—The United States—

(aa) may reserve a nonexclusive, non-transferable, irrevocable, paid-up license, to have practiced for or on behalf of the United States, in connection with any intellectual property described in subclause (I); but

(bb) shall not, in the exercise of a license reserved under item (aa), publicly disclose proprietary information relating to the license.

(III) TRANSFER OF TITLE.—Title to any intellectual property described in subclause (I) shall not be transferred or passed, except to an entity that is incorporated in the United States, until the expiration of the first patent obtained in connection with the intellectual property.

(v) AUTHORIZATION OF APPROPRIATIONS.—

(I) IN GENERAL.—There is authorized to be appropriated to carry out this subparagraph \$35,000,000, to remain available until expended.

(II) REQUIREMENT.—Research carried out using amounts made available under subclause (I) may not duplicate research funded by the Department of Energy.

(vi) TERMINATION OF AUTHORITY.—The Board and all authority provided under this subparagraph shall terminate not later than 10 years after the date of enactment of the America's Transportation Infrastructure Act of 2019.

(C) CARBON DIOXIDE UTILIZATION RESEARCH.—

(i) DEFINITION OF CARBON DIOXIDE UTILIZATION.—In this subparagraph, the term ‘carbon dioxide utilization’ refers to technologies or approaches that lead to the use of carbon dioxide—

(I) through the fixation of carbon dioxide through photosynthesis or chemosynthesis, such as through the growing of algae or bacteria;

(II) through the chemical conversion of carbon dioxide to a material or chemical compound in which the carbon dioxide is securely stored; or

(III) through the use of carbon dioxide for any other purpose for which a commercial market exists, as determined by the Administrator.

(ii) PROGRAM.—The Administrator, in consultation with the Secretary of Energy, shall carry out a research and development program for carbon dioxide utilization to promote existing and new technologies that transform carbon dioxide generated by industrial proc-

esses into a product of commercial value, or as an input to products of commercial value.

(iii) TECHNICAL AND FINANCIAL ASSISTANCE.—Not later than 2 years after the date of enactment of the America's Transportation Infrastructure Act of 2019, in carrying out this subsection, the Administrator, in consultation with the Secretary of Energy, shall support research and infrastructure activities relating to carbon dioxide utilization by providing technical assistance and financial assistance in accordance with clause (iv).

(iv) ELIGIBILITY.—To be eligible to receive technical assistance and financial assistance under clause (iii), a carbon dioxide utilization project shall—

(I) have access to an emissions stream generated by a stationary source within the United States that is capable of supplying not less than 250 metric tons per day of carbon dioxide for research;

(II) have access to adequate space for a laboratory and equipment for testing small-scale carbon dioxide utilization technologies, with onsite access to larger test bays for scale-up; and

(III) have existing partnerships with institutions of higher education, private companies, States, or other government entities.

(v) COORDINATION.—In supporting carbon dioxide utilization projects under this paragraph, the Administrator shall consult with the Secretary of Energy, and, as appropriate, with the head of any other relevant Federal agency, States, the private sector, and institutions of higher education to develop methods and technologies to account for the carbon dioxide emissions avoided by the carbon dioxide utilization projects.

(vi) AUTHORIZATION OF APPROPRIATIONS.—

(I) IN GENERAL.—There is authorized to be appropriated to carry out this subparagraph \$50,000,000, to remain available until expended.

(II) REQUIREMENT.—Research carried out using amounts made available under subclause (I) may not duplicate research funded by the Department of Energy.

(D) DEEP SALINE FORMATION REPORT.—

(i) DEFINITION OF DEEP SALINE FORMATION.—

(I) IN GENERAL.—In this subparagraph, the term 'deep saline formation' means a formation of subsurface geographically extensive sedimentary rock layers saturated with waters or brines that have a high total dissolved solids content and that are below the depth where carbon dioxide can exist in the formation as a supercritical fluid.

(II) CLARIFICATION.—In this subparagraph, the term 'deep saline formation' does not include oil and gas reservoirs.

(ii) REPORT.—In consultation with the Secretary of Energy, and, as appropriate, with the head of any

other relevant Federal agency and relevant stakeholders, not later than 1 year after the date of enactment of the America's Transportation Infrastructure Act of 2019, the Administrator shall prepare, submit to Congress, and make publicly available a report that includes—

(I) a comprehensive identification of potential risks and benefits to project developers associated with increased storage of carbon dioxide captured from stationary sources in deep saline formations, using existing research;

(II) recommendations, if any, for managing the potential risks identified under subclause (I), including potential risks unique to public land; and

(III) recommendations, if any, for Federal legislation or other policy changes to mitigate any potential risks identified under subclause (I).

(E) REPORT ON CARBON DIOXIDE NONREGULATORY STRATEGIES AND TECHNOLOGIES.—

(i) IN GENERAL.—Not less frequently than once every 2 years, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

(I) the recipients of assistance under subparagraphs (B) and (C); and

(II) a plan for supporting additional nonregulatory strategies and technologies that could significantly prevent carbon dioxide emissions or reduce carbon dioxide levels in the air, in conjunction with other Federal agencies.

(ii) INCLUSIONS.—The plan submitted under clause (i) shall include—

(I) a methodology for evaluating and ranking technologies based on the ability of the technologies to cost effectively reduce carbon dioxide emissions or carbon dioxide levels in the air; and

(II) a description of any nonair-related environmental or energy considerations regarding the technologies.

(F) GAO REPORT.—The Comptroller General of the United States shall submit to Congress a report that—

(i) identifies all Federal grant programs in which a purpose of a grant under the program is to perform research on carbon capture and utilization technologies, including direct air capture technologies; and

(ii) examines the extent to which the Federal grant programs identified pursuant to clause (i) overlap or are duplicative.

\* \* \* \* \*

**ENERGY POLICY ACT OF 2005**

\* \* \* \* \*

## TITLE I—ENERGY EFFICIENCY

### Subtitle A—Federal Programs

#### SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

#### Subtitle G—Diesel Emissions Reduction

#### SEC. 792. [42 U.S.C. 16132] NATIONAL GRANT, REBATE, AND LOAN PROGRAMS.

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) APPLICATIONS.—

(1) EXPEDITED PROCESS.— \* \* \*

\* \* \* \* \*

(4) PRIORITY.—In providing a grant, rebate, or loan under this section, the Administrator shall give highest priority to proposed projects that, as determined by the Administrator—

(A) \* \* \*

\* \* \* \* \*

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life, *recognizing differences in typical vehicle, engine, equipment, and fleet use throughout the United States*;

\* \* \* \* \*

#### SEC. 793. [42 U.S.C. 16133] STATE GRANT, REBATE, AND LOAN PROGRAMS.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant, rebate, and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant, rebate, or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received[; and] ;

\* \* \* \* \*

(D) *the recognition, for purposes of implementing this section, of differences in typical vehicle, engine, equipment, and fleet use throughout the United States, including expected useful life; and*

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(2) ALLOCATION.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(C) REALLOCATION.—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated [to each remaining qualified State in an amount equal to the product obtained by multiplying—

(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

(ii) the amount otherwise allocatable to the non-qualifying State under this paragraph] to carry out section 792.

\* \* \* \* \*

SEC. 797. [42 U.S.C. 16137] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle \$100,000,000 for each of fiscal years 2012 through [2016] 2024, to remain available until expended.

\* \* \* \* \*

Public Law 88-657-(Act of Oct. 13, 1964; Forest Roads And Trails Act)

\* \* \* \* \*

SEC. 2. \* \* \*

\* \* \* \* \*

SEC. 7. \* \* \*

\* \* \* \* \*

SEC. 8. FOREST SERVICE LEGACY ROADS AND TRAILS REMEDIATION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Chief of the Forest Service, shall establish, and develop a national strategy to carry out, a program, to be known as the 'Forest Service Legacy Roads and Trails Remediation Program', within the National Forest System, to carry out critical maintenance and urgent repairs and improvements on National Forest System roads, trails, and bridges.

(b) PRIORITY.—In implementing the program under this section, the Secretary may give priority to any project that protects or restores—

(1) water quality;

(2) a watershed that feeds a public drinking water system;

(3) important wildlife habitat, as determined by the Secretary, in consultation with each affected State, including habitat of threatened, endangered, or sensitive fish or wildlife species; or

(4) historic public access for authorized multiple uses of National Forest System land in accordance with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.), including

*grazing, recreation, hunting, fishing, forest management, wild-fire mitigation, and ecosystem restoration.*

(c) NATIONAL FOREST SYSTEM.—*Except as authorized under section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011a), each project carried out under this section shall be on a National Forest System road or trail.*

(d) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to the Secretary to carry out this section \$50,000,000 for each of fiscal years 2021 through 2025, to remain available until expended.*

\* \* \* \* \*

**INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991**

\* \* \* \* \*

**TITLE I—SURFACE TRANSPORTATION**

**Part A—Title 23 Programs**

**SEC. 1001. COMPLETION OF INTERSTATE SYSTEM.**

(a) \* \* \*

\* \* \* \* \*

**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) \* \* \*

\* \* \* \* \*

(90) *The Edward T. Breathitt Parkway from Interstate 24 to Interstate 69.*

(91) *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.*

(92) *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.*

(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 vi-*

*cinity 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.*

\* \* \* \* \*

(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), **and subsection (c)(90)** *subsection (c)(90), subsection (c)(91), subsection (c)(92), subsection (c)(93)(A), subsection (c)(94), and subsection (c)(95)* 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

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Interstate Route I-169. *The route referred to in subsection (c)(92) is designated as Interstate Route I-569.*

\* \* \* \* \*

