

“(1) IN GENERAL.—Notwithstanding section 147(b) [probably means section 147(b) of title 23, United States Code], in the case of a project to replace or retrofit a diesel fuel ferry vessel that provides substantial emissions reductions, the Federal share of the cost of the project may be up to 85 percent, as determined by the State.

“(2) SUNSET.—The authority provided by paragraph (1) shall terminate on September 30, 2025.”

#### ELECTRIC OR LOW-EMITTING FERRY PILOT PROGRAM

Pub. L. 117–58, div. G, title XI, § 71102, Nov. 15, 2021, 135 Stat. 1325, provided that:

“(a) DEFINITIONS.—In this section:

“(1) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means—

“(A) methanol, denatured ethanol, and other alcohols;

“(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

“(C) natural gas;

“(D) liquefied petroleum gas;

“(E) hydrogen;

“(F) fuels (except alcohol) derived from biological materials;

“(G) electricity (including electricity from solar energy); and

“(H) any other fuel the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

“(2) ELECTRIC OR LOW-EMITTING FERRY.—The term ‘electric or low-emitting ferry’ means a ferry that reduces emissions by utilizing alternative fuels or onboard energy storage systems and related charging infrastructure to reduce emissions or produce zero onboard emissions under normal operation.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(b) ESTABLISHMENT.—The Secretary shall carry out a pilot program to provide grants for the purchase of electric or low-emitting ferries and the electrification of or other reduction of emissions from existing ferries.

“(c) REQUIREMENT.—In carrying out the pilot program under this section, the Secretary shall ensure that—

“(1) not less than 1 grant under this section shall be for a ferry service that serves the State with the largest number of Marine Highway System miles; and

“(2) not less than 1 grant under this section shall be for a bi-State ferry service—

“(A) with an aging fleet; and

“(B) whose development of zero and low emission power source ferries will propose to advance the state of the technology toward increasing the range and capacity of zero emission power source ferries.

“(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 2022 through 2026.”

#### FERRY SERVICE FOR RURAL COMMUNITIES

Pub. L. 117–58, div. G, title XI, § 71103, Nov. 15, 2021, 135 Stat. 1326, provided that:

“(a) DEFINITIONS.—In this section:

“(1) BASIC ESSENTIAL FERRY SERVICE.—The term ‘basic essential ferry service’ means scheduled ferry transportation service.

“(2) ELIGIBLE SERVICE.—The term ‘eligible service’ means a ferry service that—

“(A) operated a regular schedule at any time during the 5-year period ending on March 1, 2020; and

“(B) served not less than 2 rural areas located more than 50 sailing miles apart.

“(3) RURAL AREA.—The term ‘rural area’ has the meaning given the term in section 5302 of title 49, United States Code.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(b) ESTABLISHMENT.—The Secretary shall establish a program to ensure that basic essential ferry service is provided to rural areas by providing funds to States to provide such basic essential ferry service.

“(c) PROGRAM CRITERIA.—The Secretary shall establish requirements and criteria for participation in the program under this section, including requirements for the provision of funds to States.

“(d) WAIVERS.—The Secretary shall establish criteria for the waiver of any requirement under this section.

“(e) TREATMENT.—

“(1) NOT ATTRIBUTABLE TO URBANIZED AREAS.—An eligible service that receives funds from a State under this section shall not be attributed to an urbanized area for purposes of apportioning funds under chapter 53 of title 49, United States Code.

“(2) NO RECEIPT OF CERTAIN APPORTIONED FUNDS.—An eligible service that receives funds from a State under this section shall not receive funds apportioned under section 5336 or 5337 of title 49, United States Code, in the same fiscal year.

“(f) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section \$200,000,000 for each of fiscal years 2022 through 2026.

“(g) OPERATING COSTS.—

“(1) [Amended this section.]

“(2) [Amended section 218 of this title.]”

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 109–59, title I, § 1801(d), Aug. 10, 2005, 119 Stat. 1456, provided that: “In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act [119 Stat. 1153], there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.”

### § 148. Highway safety improvement program

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

(1) HIGH RISK RURAL ROAD.—The term “high risk rural road” means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

(2) HIGHWAY BASEMAP.—The term “highway basemap” means a representation of all public roads that can be used to geolocate attribute data on a roadway.

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “highway safety improvement program” means projects, activities, plans, and reports carried out under this section.

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term “highway safety improvement project” means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

(i) correct or improve a hazardous road location or feature; or

(ii) address a highway safety problem.

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

(i) An intersection safety improvement that provides for the safety of all road users, as appropriate, including a multimodal roundabout.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices or a grade separation project.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Installation or upgrades of traffic control devices for pedestrians and bicyclists, including pedestrian hybrid beacons and the addition of bicycle movement phases to traffic signals.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, including medians, pedestrian crossing islands, protected bike lanes, and protected intersection features.

(xxviii) A pedestrian security feature designed to slow or stop a motor vehicle.

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

(5) **MODEL INVENTORY OF ROADWAY ELEMENTS.**—The term "model inventory of roadway elements" means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

(6) **PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.**—The term "project to maintain minimum levels of retroreflectivity" means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

(7) **ROAD SAFETY AUDIT.**—The term "road safety audit" means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

(8) **ROAD USERS.**—The term "road user" means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) **SAFE SYSTEM APPROACH.**—The term "safe system approach" means a roadway design—

(A) that emphasizes minimizing the risk of injury or fatality to road users; and

(B) that—

(i) takes into consideration the possibility and likelihood of human error;

(ii) accommodates human injury tolerance by taking into consideration likely accident types, resulting impact forces, and the ability of the human body to withstand impact forces; and

(iii) takes into consideration vulnerable road users.

(10) **SAFETY DATA.**—

(A) **IN GENERAL.**—The term "safety data" means crash, roadway, and traffic data on a public road.

(B) **INCLUSION.**—The term "safety data" includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

(11) **SPECIFIED SAFETY PROJECT.**—

(A) **IN GENERAL.**—The term "specified safety project" means a project carried out for the purpose of safety under any other sec-

tion of this title that is consistent with the State strategic highway safety plan.

(B) INCLUSION.—The term “specified safety project” includes a project that—

(i) promotes public awareness and informs the public regarding highway safety matters (including safety for motorcyclists, bicyclists, pedestrians, individuals with disabilities, and other road users);

(ii) facilitates enforcement of traffic safety laws;

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

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

(v) supports safe routes to school non-infrastructure-related activities described in section 208(g)(2).

(12) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

(13) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

(i) a highway safety representative of the Governor of the State;

(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) a highway-rail grade crossing safety representative of the Governor of the State;

(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(vii) motor vehicle administration agencies;

(viii) county transportation officials;

(ix) State representatives of non-motorized users; and

(x) other major Federal, State, tribal, and local safety stakeholders;

(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

(E) considers the results of State, regional, or local transportation and highway safety planning processes;

(F) describes a program of strategies to reduce or eliminate safety hazards;

(G) includes a vulnerable road user safety assessment;

(H) is approved by the Governor of the State or a responsible State agency;

(I) is consistent with section 135(g); and

(J) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

(14) SYSTEMIC SAFETY IMPROVEMENT.—The term “systemic safety improvement” means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(15) VULNERABLE ROAD USER.—The term “vulnerable road user” means a nonmotorist—

(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term “number of non-motorized fatalities” in section 490.205 of title 23, Code of Federal Regulations (or successor regulations); or

(B) described in the term “number of non-motorized serious injuries” in that section.

(16) VULNERABLE ROAD USER SAFETY ASSESSMENT.—The term “vulnerable road user safety assessment” means an assessment of the safety performance of the State with respect to vulnerable road users and the plan of the State to improve the safety of vulnerable road users as described in subsection (l).

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

(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)(13) and (d);

(B) produces a program of projects or strategies to reduce identified safety problems; and

(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and

accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

(ii) to evaluate the effectiveness of data improvement efforts;

(iii) to link State data systems, including traffic records, with other data systems within the State;

(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

(vi) to improve the collection of data on nonmotorized crashes and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, vulnerable road users (including motorcyclists, bicyclists, pedestrians), and other highway users;

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

(v) consider which projects maximize opportunities to advance safety;

(C) adopt strategic and performance-based goals that—

(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

(ii) focus resources on areas of greatest need; and

(iii) are coordinated with other State highway safety programs;

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

(iii) identifies hazardous locations, sections, and elements on all public roads

that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels;

(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State; and

(vi) improves the ability of the State to differentiate the fatalities and serious injuries of vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

(iv) rural roads, including all public roads, commensurate with fatality data;

(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

(vi) the cost-effectiveness of improvements;

(vii) improvements to rail-highway grade crossings; and

(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

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

(A) IN GENERAL.—Each State shall—

(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(13); and

(ii) the process used is consistent with the requirements of this subsection.

(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail;

(B) as provided in subsection (g); or

(C) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan.

(2) USE OF OTHER FUNDING FOR SAFETY.—

(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(3) FLEXIBLE FUNDING FOR SPECIFIED SAFETY PROJECTS.—

(A) IN GENERAL.—To advance the implementation of a State strategic highway safety plan, a State may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out specified safety projects.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph requires a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph.

(C) EFFECT OF PARAGRAPH.—

(i) REQUIREMENTS.—A project carried out under this paragraph shall be subject to all requirements under this section that apply to a highway safety improvement project.

(ii) OTHER APPORTIONED PROGRAMS.—Nothing in this paragraph prohibits the use of funds made available under other provisions of this title for a specified safety project that is a noninfrastructure project.

(f) DATA IMPROVEMENT.—

(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

(A) IN GENERAL.—The term “data improvement activities” means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

(B) INCLUSIONS.—The term “data improvement activities” includes a project or activity—

(i) to create, update, or enhance a highway basemap of all public roads in a State;

(ii) to collect safety data, including data identified as part of the model inventory for roadway elements, for creation of or use on a highway basemap of all public roads in a State;

(iii) to store and maintain safety data in an electronic manner;

(iv) to develop analytical processes for safety data elements;

(v) to acquire and implement roadway safety analysis tools; and

(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

(2) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

(B) ensure that States adopt and use the subset to improve data collection.

(g) SPECIAL RULES.—

(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21.

(2) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal High-

way Administration entitled “Highway Design Handbook for Older Drivers and Pedestrians” (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

(3) **VULNERABLE ROAD USER SAFETY.**—If the total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of the amounts apportioned to the State under section 104(b)(3) for the following fiscal year for highway safety improvement projects to address the safety of vulnerable road users.

(h) **REPORTS.**—

(1) **IN GENERAL.**—A State shall submit to the Secretary a report that—

(A) describes progress being made to implement highway safety improvement projects under this section;

(B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section have contributed to reducing—

(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

(2) **CONTENTS; SCHEDULE.**—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

(3) **TRANSPARENCY.**—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

(A) the website of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) **DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.**—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

(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) use obligation authority equal to the apportionment of the State for the prior year

under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State; and

(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) identifies roadway features that constitute a hazard to road users;

(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

(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 performance targets of the State; and

(E) describes the actions the State will undertake to meet the safety performance targets of the State.

(j) **FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.**—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.

(k) **DATA COLLECTION ON UNPAVED PUBLIC ROADS.**—

(1) **IN GENERAL.**—A State may elect not to collect fundamental data elements for the model inventory of roadway elements on public roads that are gravel roads or otherwise unpaved if—

(A) the State does not use funds provided to carry out this section for a project on any such roads until the State completes a collection of the required model inventory of roadway elements for the applicable road segment; and

(B) the State demonstrates that the State consulted with affected Indian tribes before ceasing to collect data with respect to such roads that are included in the National Tribal Transportation Facility Inventory under section 202(b)(1) of this title.

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to allow a State to cease data collection related to serious injuries or fatalities.

(l) **VULNERABLE ROAD USER SAFETY ASSESSMENT.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this subsection, each State shall complete a vulnerable road user safety assessment.

(2) **CONTENTS.**—A vulnerable road user safety assessment under paragraph (1) shall include—

(A) a quantitative analysis of vulnerable road user fatalities and serious injuries that—

(i) includes data such as location, roadway functional classification, design speed, speed limit, and time of day;

(ii) considers the demographics of the locations of fatalities and serious injuries, including race, ethnicity, income, and age; and

(iii) based on the data, identifies areas as “high-risk” to vulnerable road users; and

(B) a program of projects or strategies to reduce safety risks to vulnerable road users in areas identified as high-risk under subparagraph (A)(iii).

(3) **USE OF DATA.**—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall use data from the most recent 5-year period for which data is available.

(4) **REQUIREMENTS.**—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall—

(A) take into consideration a safe system approach; and

(B) consult with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under paragraph (2)(A)(iii).

(5) **UPDATE.**—A State shall update the vulnerable road user safety assessment of the State in accordance with the updates required to the State strategic highway safety plan under subsection (d).

(6) **REQUIREMENT FOR TRANSPORTATION SYSTEM ACCESS.**—The program of projects developed under paragraph (2)(B) may not degrade transportation system access for vulnerable road users.

(7) **GUIDANCE.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop guidance for States to carry out this subsection.

(B) **CONSULTATION.**—In developing the guidance under this paragraph, the Secretary shall consult with the States and relevant safety stakeholders.

(Added Pub. L. 93-87, title I, §129(b), Aug. 13, 1973, 87 Stat. 265; amended Pub. L. 95-599, title I, §§125, 129(d), Nov. 6, 1978, 92 Stat. 2705, 2707; Pub. L. 109-59, title I, §1401(a)(1), Aug. 10, 2005, 119 Stat. 1219; Pub. L. 112-141, div. A, title I, §1112(a), July 6, 2012, 126 Stat. 450; Pub. L. 114-94, div. A, title I, §§1113(a), 1406(b), Dec. 4, 2015, 129 Stat. 1347, 1410; Pub. L. 117-58, div. A, title I, §§1111(a), 11525(j), Nov. 15, 2021, 135 Stat. 475, 607.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1401 of the MAP-21, referred to in subsec. (a)(4)(B)(xxiii), is section 1401 of Pub. L. 112-141, which is set out as a note under section 137 of this title.

The date of enactment of the MAP-21, referred to in subsecs. (d)(1)(A) and (g)(1), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title. Subsection (f) of this section, as in effect on the day before the date of enact-

ment of the MAP-21, means subsec. (f) of this section as in effect on the day before the date of enactment of Pub. L. 112-141, which amended this section generally.

The date of enactment of this paragraph and the date of enactment of this subsection, referred to in subsecs. (e)(3)(B) and (l)(1), (7)(A), are the date of enactment of Pub. L. 117-58, which was approved Nov. 15, 2021.

#### AMENDMENTS

2021—Subsec. (a)(4)(B)(i). Pub. L. 117-58, §1111(a)(1)(A)(i), inserted “that provides for the safety of all road users, as appropriate, including a multimodal roundabout” after “improvement”.

Subsec. (a)(4)(B)(vi). Pub. L. 117-58, §1111(a)(1)(A)(ii), inserted “or a grade separation project” after “devices”.

Subsec. (a)(4)(B)(viii). Pub. L. 117-58, §1111(a)(1)(A)(iii), added cl. (viii) and struck out former cl. (viii) which read as follows: “Construction of a traffic calming feature.”

Subsec. (a)(4)(B)(xxvi). Pub. L. 117-58, §1111(a)(1)(A)(iv), added cl. (xxvi) and struck out former cl. (xxvi) which read as follows: “Pedestrian hybrid beacons.”

Subsec. (a)(4)(B)(xxvii) to (xxix). Pub. L. 117-58, §1111(a)(1)(A)(v), added cls. (xxvii) to (xxix) and struck out former cls. (xxvii) and (xxviii) which read as follows:

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

“(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).”

Subsec. (a)(9) to (13). Pub. L. 117-58, §1111(a)(1)(B)-(D), added pars. (9) and (11) and redesignated former pars. (9), (10), and (11) as (10), (12), and (13), respectively. Former par. (12) redesignated (14).

Subsec. (a)(13)(G) to (J). Pub. L. 117-58, §1111(a)(1)(E), added subpar. (G) and redesignated former subpars. (G) to (I) as (H) to (J), respectively.

Subsec. (a)(14). Pub. L. 117-58, §1111(a)(1)(B), redesignated par. (12) as (14).

Subsec. (a)(15), (16). Pub. L. 117-58, §1111(a)(1)(F), added pars. (15) and (16).

Subsec. (c)(1)(A). Pub. L. 117-58, §1111(a)(2)(A), substituted “subsections (a)(13)” for “subsections (a)(11)”.

Subsec. (c)(2)(A)(vi). Pub. L. 117-58, §1111(a)(2)(B)(i), inserted “and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users” after “crashes”.

Subsec. (c)(2)(B)(i). Pub. L. 117-58, §1111(a)(2)(B)(ii), substituted “, vulnerable road users (including motorcyclists, bicyclists, pedestrians),” for “(including motorcyclists, bicyclists, pedestrians,”.

Subsec. (c)(2)(D)(vi). Pub. L. 117-58, §1111(a)(2)(B)(iii), added cl. (vi).

Subsec. (d)(2)(B)(i). Pub. L. 117-58, §1111(a)(3), substituted “subsection (a)(13)” for “subsection (a)(11)”.

Subsec. (e)(3). Pub. L. 117-58, §1111(a)(4), added par. (3).

Subsec. (g)(3). Pub. L. 117-58, §1111(a)(5), added par. (3).

Subsec. (i)(2)(D). Pub. L. 117-58, §11525(j), substituted “safety performance” for “safety safety performance”.

Subsec. (l). Pub. L. 117-58, §1111(a)(6), added subsec. (l).

2015—Subsec. (a)(4)(B). Pub. L. 114-94, §1113(a)(1)(A)(i), substituted “only includes” for “includes, but is not limited to,” in introductory provisions.

Subsec. (a)(4)(B)(xxv) to (xxviii). Pub. L. 114-94, §1113(a)(1)(A)(ii), added cls. (xxv) to (xxviii).

Subsec. (a)(10) to (13). Pub. L. 114-94, §1113(a)(1)(B), (C), redesignated pars. (11) to (13) as (10) to (12) and struck out former par. (10). Prior to amendment, text of par. (10) read as follows:

“(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—

“(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

“(ii) a project to enforce highway safety laws; and

“(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.”

Subsec. (c)(1)(A). Pub. L. 114-94, §1113(a)(2), substituted “subsections (a)(11)” for “subsections (a)(12)”.

Subsec. (d)(2)(B)(i). Pub. L. 114-94, §1113(a)(3), substituted “subsection (a)(11)” for “subsection (a)(12)”.

Subsec. (i). Pub. L. 114-94, §1406(b)(1), substituted “safety performance targets of the State established under section 150(d)” for “performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets” in introductory provisions.

Subsec. (i)(1), (2). Pub. L. 114-94, §1406(b)(2), inserted “safety” before “performance targets” wherever appearing.

Subsec. (k). Pub. L. 114-94, §1113(a)(4), added subsec. (k).

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to highway safety improvement program and consisted of subsecs. (a) to (h).

2005—Pub. L. 109-59 amended section catchline and text generally, substituting provisions relating to a highway safety improvement program for provisions relating to development of the Great River Road, a national scenic and recreational highway.

1978—Subsec. (a)(5). Pub. L. 95-599, §125(b), inserted provision authorizing charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95-599, §129(d), substituted “75 per centum” for “70 per centum”.

Subsec. (h). Pub. L. 95-599, §125(a), added subsec. (h).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

##### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 129(d) of Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as a note under section 120 of this title.

##### VULNERABLE ROAD USER RESEARCH

Pub. L. 117-58, div. A, title I, §11122, Nov. 15, 2021, 135 Stat. 497, provided that:

“(a) DEFINITIONS.—In this subsection [probably means “this section”]:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Secretary [of Transportation], acting through the Administrator of the Federal Highway Administration.

“(2) VULNERABLE ROAD USER.—The term ‘vulnerable road user’ has the meaning given the term in section 148(a) of title 23, United States Code.

“(b) ESTABLISHMENT OF RESEARCH PLAN.—The Administrator shall establish a research plan to prioritize research on roadway designs, the development of safety

countermeasures to minimize fatalities and serious injuries to vulnerable road users, and the promotion of bicycling and walking, including research relating to—

“(1) roadway safety improvements, including traffic calming techniques and vulnerable road user accommodations appropriate in a suburban arterial context;

“(2) the impacts of traffic speeds, and access to low-traffic stress corridors, on safety and rates of bicycling and walking;

“(3) tools to evaluate the impact of transportation improvements on projected rates and safety of bicycling and walking; and

“(4) other research areas to be determined by the Administrator.

“(c) VULNERABLE ROAD USER ASSESSMENTS.—The Administrator shall—

“(1) review each vulnerable road user safety assessment submitted by a State under section 148(l) of title 23, United States Code, and other relevant sources of data to determine what, if any, standard definitions and methods should be developed through guidance to enable a State to collect pedestrian injury and fatality data; and

“(2) in the first progress update under subsection (d)(2), provide—

“(A) the results of the determination described in paragraph (1); and

“(B) the recommendations of the Secretary with respect to the collection and reporting of data on the safety of vulnerable road users.

“(d) SUBMISSION; PUBLICATION.—

“(1) SUBMISSION OF PLAN.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Administrator 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 the research plan described in subsection (b).

“(2) PROGRESS UPDATES.—Not later than 2 years after the date of enactment of this Act, and biannually thereafter, the Administrator shall submit to the Committees described in paragraph (1)—

“(A) updates on the progress and findings of the research conducted pursuant to the plan described in subsection (b); and

“(B) in the first submission under this paragraph, the results and recommendations described in subsection (c)(2).”

##### STOPPING THREATS ON PEDESTRIANS

Pub. L. 117-58, div. A, title I, §11502, Nov. 15, 2021, 135 Stat. 578, provided that:

“(a) DEFINITION OF BOLLARD INSTALLATION PROJECT.—In this section, the term ‘bollard installation project’ means a project to install raised concrete or metal posts on a sidewalk adjacent to a roadway that are designed to slow or stop a motor vehicle.

“(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021] and subject to the availability of appropriations, the Secretary [of Transportation] shall establish and carry out a competitive grant pilot program to provide assistance to State departments of transportation and local government entities for bollard installation projects designed to prevent pedestrian injuries and acts of terrorism in areas used by large numbers of pedestrians.

“(c) APPLICATION.—To be eligible to receive a grant under this section, a State department of transportation or local government entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary determines to be appropriate, which shall include, at a minimum—

“(1) a description of the proposed bollard installation project to be carried out;

“(2) a description of the pedestrian injury or terrorism risks with respect to the proposed installation area; and

“(3) an analysis of how the proposed bollard installation project will mitigate those risks.



“(d) USE OF FUNDS.—A recipient of a grant under this section may only use the grant funds for a bollard installation project.

“(e) FEDERAL SHARE.—The Federal share of the costs of a bollard installation project carried out with a grant under this section may be up to 100 percent.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$5,000,000 for each of fiscal years 2022 through 2026.

“(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code.”

#### STUDY OF HIGH-RISK RURAL ROADS BEST PRACTICES

Pub. L. 117-58, div. A, title I, §1111(b), Nov. 15, 2021, 135 Stat. 478, provided that:

“(1) STUDY.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall update the study under section 1112(b)(1) of MAP-21 (23 U.S.C. 148 note; Public Law 112-141).

“(2) PUBLICATION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish on the website of the Department of Transportation an update to the report described in section 1112(b)(2) of MAP-21 (23 U.S.C. 148 note; Public Law 112-141).

“(3) BEST PRACTICES MANUAL.—Not later than 180 days after the date on which the report is published under paragraph (2), the Secretary shall update the best practices manual described in section 1112(b)(3) of MAP-21 (23 U.S.C. 148 note; Public Law 112-141).”

Pub. L. 112-141, div. A, title I, §1112(b), July 6, 2012, 126 Stat. 459, provided that:

“(1) STUDY.—

“(A) IN GENERAL.—The Secretary [of Transportation] shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(B) METHODOLOGY.—In carrying out the study, the Secretary shall—

“(i) conduct a thorough literature review;

“(ii) survey current practices of State departments of transportation; and

“(iii) survey current practices of local units of government, as appropriate.

“(C) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

“(i) State departments of transportation;

“(ii) county engineers and public works professionals;

“(iii) appropriate local officials; and

“(iv) appropriate private sector experts in the field of roadway safety infrastructure.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

“(B) CONTENTS.—The report shall include—

“(i) a summary of cost-effective roadway safety infrastructure improvements;

“(ii) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

“(iii) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

“(3) MANUAL.—

“(A) DEVELOPMENT.—Based on the results of the study under paragraph (2), the Secretary, in consulta-

tion with the individuals and entities described in paragraph (1)(C), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

“(B) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under paragraph (2).

“(C) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(D) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.”

#### TRANSITION

Pub. L. 109-59, title I, §1401(d), formerly §1401(e), Aug. 10, 2005, 119 Stat. 1227, renumbered §1401(d) by Pub. L. 110-244, title I, §101(s)(1), June 6, 2008, 122 Stat. 1577, provided for different methods of obligating funds to States for highway safety improvement programs both before and after the second fiscal year beginning Aug. 10, 2005.

### § 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 subsections (d) and (m)(1)(B)(ii), a State may obligate funds apportioned to it under section 104(b)(4) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard in the designated nonattainment area; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,