

111TH CONGRESS  
1ST SESSION

# H. R. 1827

To amend title 49, United States Code, to provide for the establishment of a flexibility incentive grant program.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2009

Ms. MATSUI introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to provide for the establishment of a flexibility incentive grant program.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Flexibility Incentive  
5       Grant Act of 2009”.

6       **SEC. 2. FLEXIBILITY INCENTIVE GRANT PILOT PROGRAM.**

7       (a) IN GENERAL.—Chapter 53 of title 49, United  
8       States Code, is amended by adding at the end the fol-  
9       lowing:

1 **“§ 5341. Flexibility incentive grant pilot program**

2 “(a) PURPOSE.—The purpose of this section is to  
3 provide incentives to encourage States to establish new  
4 sources of revenue for public transportation projects and  
5 services and to reward States for creating more flexibility  
6 in the use of their existing transportation funds.

7 “(b) ESTABLISHMENT OF PROGRAM.—The Secretary  
8 of Transportation shall establish a flexibility incentive  
9 grant pilot program in accordance with this section.

10 “(c) APPLICATIONS.—

11 “(1) IN GENERAL.—A State may submit an ap-  
12 plication to the Secretary for a grant under the sec-  
13 tion for each of fiscal years 2010 through 2013 not  
14 later than the August 1 preceding the first day of  
15 such fiscal year.

16 “(2) CONTENTS.—An application of a State for  
17 a grant for a fiscal year under this section shall con-  
18 tain, at a minimum, the aggregate amount that the  
19 State and the counties of the State expended (ex-  
20 cluding amounts from Federal sources) on public  
21 transportation projects and services for each of the  
22 State’s 2 fiscal years preceding the date of the appli-  
23 cation, together with such supporting documentation  
24 as the Secretary may require by regulation.

25 “(d) DETERMINATIONS BY THE SECRETARY.—Not  
26 later than September 1 of each of calendar years 2010

1 through 2013, the Secretary shall determine for each  
2 State that submitted an application for a grant under sub-  
3 section (c) for the fiscal year beginning on September 30th  
4 of that calendar year if the State and the counties of the  
5 State increased the aggregate amount that the State and  
6 such counties expended (excluding amounts from Federal  
7 sources) on public transportation projects and services  
8 from the State's second fiscal year preceding such Sep-  
9 tember 1 to the State's first fiscal year preceding such  
10 September 1, the amount of such increase, and the per-  
11 centage of such increase over the State's second preceding  
12 fiscal year.

13       “(e) GRANTS FOR INCREASED PUBLIC TRANSPOR-  
14 TATION FUNDING.—

15               “(1) STATES WITH AN INCREASE OF 10 PER-  
16 CENT OR MORE.—

17               “(A) IN GENERAL.—Subject to paragraph  
18 (2) and subsection (g), the Secretary shall make  
19 a grant for each of fiscal years 2010 through  
20 2013 to each State—

21               “(i) whose percentage increase, as de-  
22 termined by the Secretary under sub-  
23 section (d) with respect to such fiscal year,  
24 in expenditures for public transportation  
25 projects and services over the preceding

1           fiscal year of the State was 10 percent or  
2           more; and

3           “(ii) whose aggregate expenditures for  
4           such projects and services in the State’s  
5           preceding fiscal year was \$1,000,000,000  
6           or less, as determined by the Secretary  
7           under subsection (d); and

8           “(B) AMOUNT.—The amount of a grant  
9           under subparagraph (A) shall be equal to the  
10          increase in the aggregate amount that the State  
11          and the counties of the State expended (exclud-  
12          ing amounts from Federal sources) on public  
13          transportation projects and services from the  
14          second preceding fiscal year of the State to the  
15          first preceding fiscal year of the State, as deter-  
16          mined by the Secretary under subsection (d).

17          “(2) LARGE STATES WITH AN INCREASE OF 1  
18          PERCENT OR MORE.—Subject to subsection (g), for  
19          each of fiscal years 2010 through 2013, the Sec-  
20          retary shall make a grant of \$50,000,000 to each  
21          State—

22                 “(A) whose percentage increase, as deter-  
23                 mined by the Secretary under subsection (d)  
24                 with respect to such fiscal year, in expenditures  
25                 for public transportation projects and services

1 over the preceding fiscal year of the State was  
2 1 percent or more; and

3 “(B) whose aggregate expenditures for  
4 such projects and services in the State’s pre-  
5 ceding fiscal year was more than  
6 \$1,000,000,000, as determined by the Secretary  
7 under subsection (d).

8 “(f) STATES CREATING FLEXIBLE TRANSPORTATION  
9 FUNDS.—

10 “(1) NEW DEDICATED SOURCE OF REVENUE.—

11 “(A) IN GENERAL.—Subject to subsection  
12 (g), for each of fiscal years 2010 through 2013,  
13 the Secretary shall make a grant of  
14 \$10,000,000 to each State that established in  
15 the first preceding fiscal year of the State a  
16 dedicated source of revenue for carrying out  
17 only public transportation projects and services  
18 that the Secretary—

19 “(i) determines was not in effect in  
20 the second preceding fiscal year of the  
21 State; and

22 “(ii) projects will result in an increase  
23 of 10 percent in State funds available for  
24 expenditure on such projects and services

1                   within 2 years after the date of such imple-  
2                   mentation.

3                   “(B) DEDICATED SOURCE OF REVENUES  
4                   DEFINED.—For purposes of this paragraph, the  
5                   term ‘dedicated source of revenue’ may include  
6                   the dedication of a State motor fuels tax or  
7                   sales tax, interest on existing highway funds,  
8                   motor vehicle excise tax, tolls, loans to be made  
9                   out of highway funds, and such other sources of  
10                  revenue as the Secretary determines.

11                  “(2) UNRESTRICTED USE OF HIGHWAY  
12                  FUNDS.—Subject to subsection (h), for each of fiscal  
13                  years 2010 through 2013, the Secretary shall make  
14                  a grant of \$10,000,000 to each State that in the  
15                  preceding fiscal year of the State amended State law  
16                  or the State constitution to allow funds that were re-  
17                  stricted for highway purposes only to be used for  
18                  public transportation projects and services as well as  
19                  highway purposes.

20                  “(g) LIMITATION FOR STATES ELIGIBILITY FOR  
21                  MULTIPLE GRANTS.—If the Secretary determines that a  
22                  State is eligible for a grant under more than one of sub-  
23                  sections (e)(1), (e)(2), (f)(1), and (f)(2) for a fiscal year,  
24                  the Secretary may only make the grant to the State that

1 is for the greatest amount the State is eligible for under  
2 such subsections.

3 “(h) USE OF GRANTS.—A State may obligate funds  
4 granted to it under this section for any project or activity  
5 eligible for assistance under title 23 or this chapter.

6 “(i) GRANT REQUIREMENTS.—Except as otherwise  
7 provided in this section—

8 “(1) a grant under this section being used for  
9 a public transportation project or activity shall be  
10 subject to all of the terms and conditions to which  
11 a grant made under section 5307 is subject; and

12 “(2) a grant under this section being used for  
13 a highway project or activity shall be subject to all  
14 of the terms and conditions that would be applicable  
15 to such project or activity if such project or activity  
16 were being carried out under title 23.

17 “(j) FEDERAL SHARE.—The Federal share of the  
18 cost of a project or activity funded under this section shall  
19 be 100 percent.

20 “(k) AUTHORIZATIONS OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to carry out this section  
22 for each of fiscal years 2010 through 2013 \$250,000,000.  
23 Such sums shall remain available until expended.

1       “(l) PROGRAM EVALUATION.—Not later than 5 years  
2 after the date of enactment of this section, the Secretary  
3 shall—

4               “(1) conduct a study to evaluate the pilot pro-  
5 gram authorized by this section; and

6               “(2) submit to the Committee on Transpor-  
7 tation and Infrastructure of the House of Represent-  
8 atives and the Committee on Banking, Housing, and  
9 Urban Affairs of the Senate a report describing the  
10 results of the study.”.

11       (b) CONFORMING AMENDMENT.—The analysis for  
12 such chapter is amended by adding at the end the fol-  
13 lowing:

“5341. Flexibility incentive grant pilot program.”.

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