

113TH CONGRESS
2D SESSION

H. R. 4726

To amend title 23, United States Code, to direct the Secretary of Transportation to establish an innovation in surface transportation program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2014

Mr. RODNEY DAVIS of Illinois (for himself and Ms. TITUS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to direct the Secretary of Transportation to establish an innovation in surface transportation program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Innovation in Surface
5 Transportation Act of 2014”.

1 **SEC. 2. INNOVATION IN SURFACE TRANSPORTATION PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Chapter 1 of title 23, United
4 States Code, is amended by inserting after section 104 the
5 following:

6 **“§ 105. Innovation in surface transportation program**

7 “(a) IN GENERAL.—The Secretary, in coordination
8 with State transportation departments, shall establish an
9 innovation in surface transportation program in accord-
10 ance with the requirements of this section.

11 “(b) PURPOSES.—The purposes of the program shall
12 be—

13 “(1) to increase the return on investment in the
14 Nation’s surface transportation system;

15 “(2) to make the Nation’s surface transpor-
16 tation system more reliable, safe, and efficient by
17 advancing innovative projects selected through State
18 competitions;

19 “(3) to increase input from local government
20 and stakeholders on projects receiving funding; and

21 “(4) to leverage Federal highway dollars further
22 through in-State competitions.

23 “(c) GRANTS.—

24 “(1) IN GENERAL.—A State shall make grants
25 under this section to eligible entities for eligible
26 projects to be carried out in the State using funds

1 reserved by the State for a fiscal year under sub-
2 section (e)(1).

3 “(2) STATE COMPETITIONS.—

4 “(A) IN GENERAL.—For the purposes of
5 making grants under this section, a State shall
6 conduct a competition each fiscal year under
7 which the State will accept grant applications
8 submitted by eligible entities.

9 “(B) COMPETITION DATES.—A State shall
10 conduct a competition under subparagraph
11 (A)—

12 “(i) not later than 180 days after the
13 date of enactment of this section; and

14 “(ii) not later than 30 days after the
15 first day of each fiscal year beginning after
16 such date of enactment.

17 “(3) SELECTION CRITERIA.—

18 “(A) ESTABLISHMENT OF SELECTION CRI-
19 TERIA.—The State selection panel of each State
20 shall establish and make available to the public
21 the project selection criteria that will be used by
22 the State in conducting competitions under
23 paragraph (2).

24 “(B) FACTORS.—The project selection cri-
25 teria of a State may provide for the approval of

1 project applications based on the extent to
2 which the projects—

3 “(i) improve safety for all users of the
4 transportation network;

5 “(ii) strengthen the contribution of a
6 national freight network to the Nation’s
7 economic competitiveness;

8 “(iii) promote multimodal
9 connectivity;

10 “(iv) strengthen return on investment,
11 particularly the impact on local economic
12 development;

13 “(v) improve access to jobs, sources of
14 labor, schools, and opportunity;

15 “(vi) optimize, through better design
16 and operation, the usage and efficiency of
17 existing transportation facilities;

18 “(vii) improve the reliability of the
19 transportation system of the United
20 States;

21 “(viii) encourage innovation and the
22 use of technology; or

23 “(ix) further the purposes described in
24 subsection (b).

1 “(C) SPECIAL CONSIDERATION OF CER-
2 TAIN FACTORS.—In addition to the factors
3 specified in subparagraph (B), the project selec-
4 tion criteria of a State may—

5 “(i) provide that special consideration
6 in the approval of project applications is
7 given to eligible projects that—

8 “(I) maximize the amount of pro-
9 posed project costs that can be borne
10 by the applicant from non-Federal
11 sources; or

12 “(II) have prior significant Fed-
13 eral or non-Federal investment; and

14 “(ii) give equal consideration to dif-
15 ferences in the fiscal capacity of public eli-
16 gible entities.

17 “(D) FUNDING DISTRIBUTION.—The
18 project selection criteria of a State shall take
19 into consideration the equitable distribution of
20 funds by geography and population.

21 “(4) SPECIAL RULE FOR PRIVATE TRANSPOR-
22 TATION PROVIDERS.—An eligible entity that is a pri-
23 vate transportation provider may submit a project
24 application in a State competition conducted under

1 paragraph (2) only if the application is sponsored by
2 a public entity.

3 “(d) INNOVATION IN SURFACE TRANSPORTATION SE-
4 LECTION PANEL.—

5 “(1) IN GENERAL.—A State, in coordination
6 with local transportation stakeholders, shall establish
7 an innovation in surface transportation selection
8 panel in accordance with this subsection.

9 “(2) DUTIES.—A State selection panel shall—

10 “(A) review project applications submitted
11 to the State during a competition conducted
12 under subsection (c)(2); and

13 “(B) approve and disapprove the project
14 applications based on the criteria set forth in
15 subsection (c)(3).

16 “(3) MEMBERSHIP.—A State selection panel
17 shall be composed of the following members to be
18 appointed by the State—

19 “(A) not fewer than 3 individuals rep-
20 resenting the State’s transportation depart-
21 ment;

22 “(B) not fewer than 3 individuals rep-
23 resenting local governments in the State, with
24 at least 1 representative from each of—

1 “(i) a jurisdiction with a population of
2 50,000 individuals or fewer;

3 “(ii) a jurisdiction with a population
4 of more than 50,000 individuals and not
5 more than 1,000,000 individuals; and

6 “(iii) a jurisdiction with a population
7 of more than 1,000,000 individuals, if ap-
8 plicable; and

9 “(C) not fewer than 3 individuals rep-
10 resenting metropolitan planning organizations,
11 councils of governments, and rural planning or-
12 ganizations.

13 “(4) ADDITIONAL MEMBERS.—In addition to
14 the members appointed under paragraph (3), a
15 State selection panel shall be composed of 9 mem-
16 bers to be appointed by the State, in coordination
17 with local transportation stakeholders, from among
18 individuals representing—

19 “(A) local chambers of commerce;

20 “(B) transportation management organiza-
21 tions, travel and tourism boards, economic de-
22 velopment organizations, and other coalitions of
23 employers and commerce;

24 “(C) local air quality boards or local orga-
25 nizations supporting improved air quality;

1 “(D) State safety boards or local organiza-
2 tions supporting safety;

3 “(E) transit agencies;

4 “(F) port authorities, if applicable;

5 “(G) active transportation organizations;

6 “(H) public interest organizations; and

7 “(I) labor unions.

8 “(5) DISTRIBUTION OF REPRESENTATIVES.—A
9 State shall appoint members to the State’s selection
10 panel in a manner such that—

11 “(A) the number of members appointed
12 under each of paragraphs (3)(A), (3)(B), and
13 (3)(C) is equal; and

14 “(B) at least 1 member is appointed under
15 paragraph (4) from each of the entities de-
16 scribed in subparagraphs (A) through (H) of
17 paragraph (4), if applicable.

18 “(6) GEOGRAPHIC DIVERSITY.—The members
19 of a State selection panel shall be geographically di-
20 verse, to the extent practicable.

21 “(7) REPRESENTATION LIMITATION.—Except
22 for the representatives described in paragraphs
23 (3)(A) and (3)(B)(iii), no entity may be represented
24 on a State selection panel for more than 2 consecu-

1 tive years if a comparable entity can also be rep-
2 resented on the panel.

3 “(8) CONTINUITY.—A State shall appoint mem-
4 bers to the State’s selection panel using a 2-tiered
5 rotation process that ensures continuity of the panel
6 by rotating the membership of the panel on a stag-
7 gered basis.

8 “(e) FUNDING.—

9 “(1) RESERVATION OF FUNDS.—On October 1
10 of each fiscal year, a State shall make the following
11 reservations of funds:

12 “(A) NATIONAL HIGHWAY PERFORMANCE
13 PROGRAM.—The State shall reserve 10 percent
14 of the amount apportioned to the State for the
15 fiscal year under section 104(b)(1)—

16 “(i) for carrying out State competi-
17 tions under this section; and

18 “(ii) for making grants under this sec-
19 tion for eligible projects.

20 “(B) HIGHWAY SAFETY IMPROVEMENT
21 PROGRAM.—The State shall reserve not less
22 than 33 percent of the amount apportioned to
23 the State for the fiscal year under section
24 104(b)(3) for making grants under this section

1 for eligible projects that are projects described
2 in section 148.

3 “(C) CONGESTION MITIGATION AND AIR
4 QUALITY IMPROVEMENT PROGRAM.—

5 “(i) RESERVATION OF FUNDS.—The
6 State shall reserve not less than 33 percent
7 of the amount apportioned to the State for
8 the fiscal year under section 104(b)(4) and
9 unobligated balances for section 104(b)(4)
10 from the prior fiscal year for making
11 grants under this section for eligible
12 projects that are projects described in sec-
13 tion 149(b).

14 “(ii) USE OF RESERVED FUNDS.—If
15 the State has one or more nonattainment
16 areas (as defined in section 171(2) of the
17 Clean Air Act (42 U.S.C. 7501(2))), the
18 State shall use amounts reserved under
19 this subparagraph for making grants
20 under this section for eligible projects de-
21 scribed in section 149(b) in such areas.

22 “(D) SURFACE TRANSPORTATION PRO-
23 GRAM.—The State shall reserve not less than
24 33 percent of the amount allocated to the State
25 for the fiscal year under section 133(d)(1)(B)

1 for making grants under this section for eligible
2 projects.

3 “(E) TRANSPORTATION ALTERNATIVES
4 PROGRAM.—The State shall reserve 33 percent
5 of the amount reserved by the State for the fis-
6 cal year under section 213(c)(1)(B) for making
7 grants under this section for eligible projects
8 that are projects described in section 213(b).

9 “(2) SPECIAL RULE.—Any funds that a State
10 directly suballocates to metropolitan areas or direct
11 recipients of funds under section 5307 of title 49 or
12 awards through an open statewide competition to eli-
13 gible entities shall be excluded from the funds from
14 which reservations are to be made under paragraph
15 (1).

16 “(3) NON-AWARDED FUNDS.—For each fiscal
17 year, a State shall—

18 “(A) determine—

19 “(i) the total amount of funds, if any,
20 that have been reserved by the State for
21 the fiscal year under paragraph (1) but
22 have not been awarded by the State in
23 grants under this section on or before the
24 last day of the fiscal year; and

1 “(ii) the total amount of funds, if any,
2 that have been awarded in grants by the
3 State under this section but remain unobli-
4 gated by the grant recipient after the last
5 day of the 5-year period beginning on the
6 date on which the grant was awarded; and

7 “(B) distribute or redistribute such funds,
8 as appropriate, using the process under sub-
9 section (c)(2).

10 “(f) DEFINITIONS.—In this section, the following
11 definitions apply:

12 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
13 tity’ means—

14 “(A) a local government;

15 “(B) a regional transportation authority;

16 “(C) a transit agency;

17 “(D) a tribal government;

18 “(E) a private provider of public transpor-
19 tation;

20 “(F) a nonprofit transportation organiza-
21 tion;

22 “(G) a port authority;

23 “(H) a joint power authority; or

24 “(I) a local rail authority.

1 “(2) ELIGIBLE PROJECT.—The term ‘eligible
2 project’ means—

3 “(A) a project eligible under—

4 “(i) section 133(b), relating to the
5 surface transportation program;

6 “(ii) section 148, relating to the high-
7 way safety improvement program;

8 “(iii) section 149(b), relating to the
9 congestion mitigation and air quality im-
10 provement program; or

11 “(iv) section 213(b), relating to the
12 transportation alternatives program; or

13 “(B) a surface transportation project that
14 will improve the movement of goods along a pri-
15 mary freight network, including multimodal fa-
16 cilities near a primary freight route.

17 “(3) PROGRAM.—The term ‘program’, except as
18 otherwise specifically provided, means the innovation
19 in surface transportation program established under
20 this section.

21 “(4) STATE SELECTION PANEL.—The term
22 ‘State selection panel’ means an innovation in sur-
23 face transportation selection panel established by a
24 State under subsection (d).

1 “(g) TRANSPARENCY.—Not later than 30 days after
 2 a State has selected projects for a fiscal year to receive
 3 funding under this section, the State shall make available,
 4 in a publically accessible medium that is easy to navi-
 5 gate—

6 “(1) the criteria and methodology used to select
 7 the projects;

8 “(2) a list of all the projects for which funding
 9 was requested, including, for each such project—

10 “(A) the total estimated project cost; and

11 “(B) the amount of funding requested;

12 “(3) a list of projects that were selected to re-
 13 ceive funding under this section, including, for each
 14 such project—

15 “(A) the amount of funding requested;

16 “(B) the amount of funding granted; and

17 “(C) the source of the non-Federal share
 18 of cost of the project; and

19 “(4) the ranking and scoring of all projects for
 20 which funding was requested.

21 “(h) REPORTING REQUIREMENTS.—

22 “(1) STATE REPORTS.—Not later than 180
 23 days after the last day of each fiscal year, a State
 24 shall submit to the Secretary a report that de-
 25 scribes—

1 “(A) the information required under sub-
2 section (g);

3 “(B) the organizations that were rep-
4 resented on the State’s selection panel;

5 “(C) the portion of the funds available to
6 the State for the program that have been obli-
7 gated; and

8 “(D) the percentage of the funds available
9 to the State for the program that were used for
10 administrative expenses.

11 “(2) BIENNIAL REPORT TO CONGRESS.—Not
12 later than September 30, 2016, and biennially there-
13 after, the Secretary shall submit a consolidated re-
14 port on the program, including a review of the State
15 reports submitted pursuant to paragraph (1), to—

16 “(A) the Committee on Banking, Housing,
17 and Urban Affairs of the Senate;

18 “(B) the Committee on Commerce,
19 Science, and Transportation of the Senate;

20 “(C) the Committee on Environment and
21 Public Works of the Senate; and

22 “(D) the Committee on Transportation
23 and Infrastructure of the House of Representa-
24 tives.

1 “(3) AVAILABILITY.—The Secretary shall make
2 the report submitted under paragraph (2) available
3 on the public Internet Web site of the Department
4 of Transportation.

5 “(i) SPECIAL RULE FOR STATES WITH COMPETITIVE
6 AND SUBALLOCATED PROGRAMS.—

7 “(1) IN GENERAL.—The Secretary may permit
8 a State to distribute funding described in subpara-
9 graphs (A), (B), (C), (D), or (E) of subsection
10 (e)(1) through the mechanisms described in para-
11 graph (2) if the Secretary certifies that the State is
12 distributing such funding in a manner that fulfills
13 the purposes of this section.

14 “(2) DISTRIBUTION MECHANISMS.—Distribu-
15 tion mechanisms that qualify under paragraph (1)
16 include—

17 “(A) an open and competitive State pro-
18 gram that is substantially similar to the re-
19 quirements of this section;

20 “(B) direct suballocation to metropolitan
21 areas of a majority of all funds—

22 “(i) apportioned to the State under
23 sections 104(b)(1), 104(b)(2), 104(b)(3),
24 and 104(b)(4); and

1 “(ii) allocated to the State under sec-
2 tion 213(a)(1); and

3 “(C) a competitive State program or direct
4 suballocation to metropolitan areas or direct re-
5 cipients of funds under section 5307 of title 49
6 of more than 95 percent of the funds—

7 “(i) apportioned to the State under
8 section 104(b)(1), 104(b)(2), 104(b)(3), or
9 104(b)(4); or

10 “(ii) allocated to the State under sec-
11 tion 213(a)(1).

12 “(3) PUBLICATION IN FEDERAL REGISTER.—
13 Before making a certification under paragraph
14 (1)(B), the Secretary shall—

15 “(A) publish in the Federal Register the
16 Secretary’s intent to make the certification;

17 “(B) provide the public not fewer than 90
18 days to comment on the proposed certification;
19 and

20 “(C) take into consideration any comments
21 received during the comment period.

22 “(4) NOTICE TO CONGRESS.—At least 15 days
23 before making a certification under paragraph
24 (1)(B), the Secretary shall submit a notice to the
25 congressional committees referred to in subsection

1 (h)(2) and the members of the State’s congressional
2 delegation that includes—

3 “(A) a notification of the Secretary’s in-
4 tent to make the certification; and

5 “(B) a justification for the proposed cer-
6 tification.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 1 of title 23, United States Code, is amended by insert-
9 ing after the item relating to section 104 the following:

“105. Innovation in surface transportation program.”.

