

(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 this chapter.

(Added Pub. L. 117–58, div. A, title I, §11403(a), Nov. 15, 2021, 135 Stat. 555.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of the FAST Act, referred to in subsec. (c)(1)(C), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsec. (d)(1), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

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

(a) DEFINITIONS.—In this section:

(1) EMERGENCY EVENT.—The term “emergency event” means a natural disaster or catastrophic failure resulting in—

(A) an emergency declared by the Governor of the State in which the disaster or failure occurred; or

(B) an emergency or disaster declared by the President.

(2) EVACUATION ROUTE.—The term “evacuation route” means a transportation route or system that—

(A) is owned, operated, or maintained by a Federal, State, Tribal, or local government;

(B) is used—

(i) to transport the public away from emergency events; or

(ii) to transport emergency responders and recovery resources; and

(C) is designated by the eligible entity with jurisdiction over the area in which the route is located for the purposes described in subparagraph (B).

(3) PROGRAM.—The term “program” means the program established under subsection (b)(1).

(4) RESILIENCE IMPROVEMENT.—The term “resilience improvement” means the use of materials or structural or nonstructural techniques, including natural infrastructure—

(A) that allow a project—

(i) to better anticipate, prepare for, and adapt to changing conditions and to withstand and respond to disruptions; and

(ii) to be better able to continue to serve the primary function of the project during and after weather events and natural disasters for the expected life of the project; or

(B) that—

(i) reduce the magnitude and duration of impacts of current and future weather

events and natural disasters to a project; or

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

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program, to be known as the “Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation program” or the “PROTECT program”.

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

(A) formula funding distributed to States to carry out subsection (c);

(B) competitive planning grants to enable communities to assess vulnerabilities to current and future weather events and natural disasters and changing conditions, including sea level rise, and plan transportation improvements and emergency response strategies to address those vulnerabilities; and

(C) competitive resilience improvement grants to protect—

(i) surface transportation assets by making the assets more resilient to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperature, and earthquakes;

(ii) communities through resilience improvements and strategies that allow for the continued operation or rapid recovery of surface transportation systems that—

(I) serve critical local, regional, and national needs, including evacuation routes; and

(II) provide access or service to hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities;

(iii) coastal infrastructure, such as a tide gate to protect highways, that is at long-term risk to sea level rise; and

(iv) natural infrastructure that protects and enhances surface transportation assets while improving ecosystem conditions, including culverts that ensure adequate flows in rivers and estuarine systems.

(c) ELIGIBLE ACTIVITIES FOR APPORTIONED FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), funds apportioned to the State under section 104(b)(8) shall be obligated for activities eligible under subparagraph (A), (B), or (C) of subsection (d)(4).

(2) PLANNING SET-ASIDE.—Of the funds apportioned to a State under section 104(b)(8) for each fiscal year, not less than 2 percent shall be for activities described in subsection (d)(3).

(3) REQUIREMENTS.—

(A) PROJECTS IN CERTAIN AREAS.—If a project under this subsection is carried out,

in whole or in part, within a base floodplain, the State shall—

(i) identify the base floodplain in which the project is to be located and disclose that information to the Secretary; and

(ii) indicate to the Secretary whether the State plans to implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(B) ELIGIBILITIES.—A State shall use funds apportioned to the State under section 104(b)(8) for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49; or

(iii) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(C) SYSTEM RESILIENCE.—A project carried out by a State with funds apportioned to the State under section 104(b)(8) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installation of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways;

(iv) upgrades to and installation of flood gates to protect tunnel entrances; and

(v) improving functionality and resiliency of stormwater controls, including inventory inspections, upgrades to, and preservation of best management practices to protect surface transportation infrastructure.

(D) FEDERAL COST SHARE.—

(i) IN GENERAL.—Except as provided in subsection (e)(1), the Federal share of the cost of a project carried out using funds apportioned to the State under section 104(b)(8) shall not exceed 80 percent of the total project cost.

(ii) NON-FEDERAL SHARE.—A State may use Federal funds other than Federal funds apportioned to the State under section 104(b)(8) to meet the non-Federal cost share requirement for a project under this subsection.

(E) ELIGIBLE PROJECT COSTS.—

(i) IN GENERAL.—Except as provided in clause (ii), eligible project costs for activities carried out by a State with funds ap-

portioned to the State under section 104(b)(8) may include the costs of—

(I) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(II) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements.

(ii) ELIGIBLE PLANNING COSTS.—In the case of a planning activity described in subsection (d)(3) that is carried out by a State with funds apportioned to the State under section 104(b)(8), eligible costs may include development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of subsection (d)(3).

(F) LIMITATIONS.—A State—

(i) may use not more than 40 percent of the amounts apportioned to the State under section 104(b)(8) for the construction of new capacity; and

(ii) may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(8) for activities described in subparagraph (E)(i)(I).

(d) COMPETITIVE AWARDS.—

(1) IN GENERAL.—In addition to funds apportioned to States under section 104(b)(8) to carry out activities under subsection (c), the Secretary shall provide grants on a competitive basis under this subsection to eligible entities described in paragraph (2).

(2) ELIGIBLE ENTITIES.—Except as provided in paragraph (4)(C), the Secretary may make a grant under this subsection to any of the following:

(A) A State or political subdivision of a State.

(B) A metropolitan planning organization.

(C) A unit of local government.

(D) A special purpose district or public authority with a transportation function, including a port authority.

(E) An Indian tribe (as defined in section 207(m)(1)).

(F) A Federal land management agency that applies jointly with a State or group of States.

(G) A multi-State or multijurisdictional group of entities described in subparagraphs (A) through (F).

(3) PLANNING GRANTS.—Using funds made available under this subsection, the Secretary shall provide planning grants to eligible entities for the purpose of—

(A) in the case of a State or metropolitan planning organization, developing a resil-

ience improvement plan under subsection (e)(2);

(B) resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments;

(C) technical capacity building by the eligible entity to facilitate the ability of the eligible entity to assess the vulnerabilities of the surface transportation assets and community response strategies of the eligible entity under current conditions and a range of potential future conditions; or

(D) evacuation planning and preparation.

(4) RESILIENCE GRANTS.—

(A) RESILIENCE IMPROVEMENT GRANTS.—

(i) IN GENERAL.—Using funds made available under this subsection, the Secretary shall provide resilience improvement grants to eligible entities to carry out 1 or more eligible activities under clause (ii).

(ii) ELIGIBLE ACTIVITIES.—

(I) IN GENERAL.—An eligible entity may use a resilience improvement grant under this subparagraph for 1 or more construction activities to improve the ability of an existing surface transportation asset to withstand 1 or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters.

(II) INCLUSIONS.—An activity eligible to be carried out under this subparagraph includes—

(aa) resurfacing, restoration, rehabilitation, reconstruction, replacement, improvement, or realignment of an existing surface transportation facility eligible for assistance under this title;

(bb) the incorporation of natural infrastructure;

(cc) the upgrade of an existing surface transportation facility to meet or exceed a design standard adopted by the Federal Highway Administration;

(dd) the installation of mitigation measures that prevent the intrusion of floodwaters into surface transportation systems;

(ee) strengthening systems that remove rainwater from surface transportation facilities;

(ff) upgrades to and installation of structural stormwater controls;

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

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

(ii) stabilizing slide areas or slopes;

(jj) installing riprap;

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

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

(mm) installing seismic retrofits on bridges;

(nn) adding scour protection at bridges;

(oo) adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;

(pp) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, facilitate wildfire control, and provide erosion control; and

(qq) any other protective features, including natural infrastructure, as determined by the Secretary.

(iii) PRIORITY.—The Secretary shall prioritize a resilience improvement grant to an eligible entity if—

(I) the Secretary determines—

(aa) the benefits of the eligible activity proposed to be carried out by the eligible entity exceed the costs of the activity; and

(bb) there is a need to address the vulnerabilities of surface transportation assets of the eligible entity with a high risk of, and impacts associated with, failure due to the impacts of weather events, natural disasters, or changing conditions, such as sea level rise, wildfires, and increased flood risk; or

(II) the eligible activity proposed to be carried out by the eligible entity is included in the applicable resilience improvement plan under subsection (e)(2).

(B) COMMUNITY RESILIENCE AND EVACUATION ROUTE GRANTS.—

(i) IN GENERAL.—Using funds made available under this subsection, the Secretary shall provide community resilience and evacuation route grants to eligible entities to carry out 1 or more eligible activities under clause (ii).

(ii) ELIGIBLE ACTIVITIES.—An eligible entity may use a community resilience and evacuation route grant under this subparagraph for 1 or more projects that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events, including a project that—

(I) is an eligible activity under subparagraph (A)(ii), if that eligible activity will improve an evacuation route;

(II) ensures the ability of the evacuation route to provide safe passage during an evacuation and reduces the risk of damage to evacuation routes as a result of future emergency events, including restoring or replacing existing evacuation routes that are in poor condition or not designed to meet the anticipated demand during an emergency event, and including steps to protect routes from mud, rock, or other debris slides;

(III) if the eligible entity notifies the Secretary that existing evacuation

routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, expands the capacity of evacuation routes to swiftly and safely accommodate evacuations, including installation of—

- (aa) communications and intelligent transportation system equipment and infrastructure;
- (bb) counterflow measures; or
- (cc) shoulders;

(IV) is for the construction of new or redundant evacuation routes, if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources;

(V) is for the acquisition of evacuation route or traffic incident management equipment or signage; or

(VI) will ensure access or service to critical destinations, including hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities.

(iii) **PRIORITY.**—The Secretary shall prioritize community resilience and evacuation route grants under this subparagraph for eligible activities that are cost-effective, as determined by the Secretary, taking into account—

(I) current and future vulnerabilities to an evacuation route due to future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the evacuation route is located; and

(II) projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis.

(iv) **CONSULTATION.**—In providing grants for community resilience and evacuation routes under this subparagraph, the Secretary may consult with the Administrator of the Federal Emergency Management Agency, who may provide technical assistance to the Secretary and to eligible entities.

**(C) AT-RISK COASTAL INFRASTRUCTURE GRANTS.**—

(i) **DEFINITION OF ELIGIBLE ENTITY.**—In this subparagraph, the term “eligible entity” means any of the following:

(I) A State (including the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(II) A political subdivision of a State described in subclause (I).

(III) A metropolitan planning organization in a State described in subclause (I).

(IV) A unit of local government in a State described in subclause (I).

(V) A special purpose district or public authority with a transportation function, including a port authority, in a State described in subclause (I).

(VI) An Indian tribe in a State described in subclause (I).

(VII) A Federal land management agency that applies jointly with a State or group of States described in subclause (I).

(VIII) A multi-State or multijurisdictional group of entities described in subclauses (I) through (VII).

(ii) **GRANTS.**—Using funds made available under this subsection, the Secretary shall provide at-risk coastal infrastructure grants to eligible entities to carry out 1 or more eligible activities under clause (iii).

(iii) **ELIGIBLE ACTIVITIES.**—An eligible entity may use an at-risk coastal infrastructure grant under this subparagraph for strengthening, stabilizing, hardening, elevating, relocating, or otherwise enhancing the resilience of highway and non-rail infrastructure, including bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways, that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs.

(iv) **CRITERIA.**—The Secretary shall provide at-risk coastal infrastructure grants under this subparagraph for a project—

(I) that addresses the risks from a current or future weather event or natural disaster, including coastal flooding, coastal erosion, wave action, storm surge, or sea level change; and

(II) that reduces long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs.

(v) **COASTAL BENEFITS.**—In addition to the criteria under clause (iv), for the purpose of providing at-risk coastal infrastructure grants under this subparagraph, the Secretary shall evaluate the extent to which a project will provide—

(I) access to coastal homes, businesses, communities, and other critical infrastructure, including access by first responders and other emergency personnel; or

(II) access to a designated evacuation route.

**(5) GRANT REQUIREMENTS.**—

(A) **SOLICITATIONS FOR GRANTS.**—In providing grants under this subsection, the Secretary shall conduct a transparent and competitive national solicitation process to se-

lect eligible projects to receive grants under paragraph (3) and subparagraphs (A), (B), and (C) of paragraph (4).

(B) APPLICATIONS.—

(i) IN GENERAL.—To be eligible to receive a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4), an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines to be necessary.

(ii) PROJECTS IN CERTAIN AREAS.—If a project is proposed to be carried out by the eligible entity, in whole or in part, within a base floodplain, the eligible entity shall—

(I) as part of the application, identify the floodplain in which the project is to be located and disclose that information to the Secretary; and

(II) indicate in the application whether, if selected, the eligible entity will implement 1 or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area.

(C) ELIGIBILITIES.—The Secretary may make a grant under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) only for—

(i) a highway project eligible for assistance under this title;

(ii) a public transportation facility or service eligible for assistance under chapter 53 of title 49;

(iii) a facility or service for intercity rail passenger transportation (as defined in section 24102 of title 49); or

(iv) a port facility, including a facility that—

(I) connects a port to other modes of transportation;

(II) improves the efficiency of evacuations and disaster relief; or

(III) aids transportation.

(D) SYSTEM RESILIENCE.—A project for which a grant is provided under paragraph (3) or subparagraph (A), (B), or (C) of paragraph (4) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that the Secretary determines are functionally connected to a transportation improvement, such as—

(i) increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;

(ii) upgrades to and installing of culverts designed to withstand 100-year flood events;

(iii) upgrades to and installation of tide gates to protect highways; and

(iv) upgrades to and installation of flood gates to protect tunnel entrances.

(E) FEDERAL COST SHARE.—

(i) PLANNING GRANT.—The Federal share of the cost of a planning activity carried out using a planning grant under paragraph (3) shall be 100 percent.

(ii) RESILIENCE GRANTS.—

(I) IN GENERAL.—Except as provided in subclause (II) and subsection (e)(1), the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) shall not exceed 80 percent of the total project cost.

(II) TRIBAL PROJECTS.—On the determination of the Secretary, the Federal share of the cost of a project carried out using a grant under subparagraph (A), (B), or (C) of paragraph (4) by an Indian tribe (as defined in section 207(m)(1)) may be up to 100 percent.

(iii) NON-FEDERAL SHARE.—The eligible entity may use Federal funds other than Federal funds provided under this subsection to meet the non-Federal cost share requirement for a project carried out with a grant under this subsection.

(F) ELIGIBLE PROJECT COSTS.—

(i) RESILIENCE GRANT PROJECTS.—Eligible project costs for activities funded with a grant under subparagraph (A), (B), or (C) of paragraph (4) may include the costs of—

(I) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(II) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements.

(ii) PLANNING GRANTS.—Eligible project costs for activities funded with a grant under paragraph (3) may include the costs of development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of that paragraph.

(G) LIMITATIONS.—

(i) IN GENERAL.—An eligible entity that receives a grant under subparagraph (A), (B), or (C) of paragraph (4)—

(I) may use not more than 40 percent of the amount of the grant for the construction of new capacity; and

(II) may use not more than 10 percent of the amount of the grant for activities described in subparagraph (F)(i)(I).

(ii) LIMIT ON CERTAIN ACTIVITIES.—For each fiscal year, not more than 25 percent of the total amount provided under this subsection may be used for projects described in subparagraph (C)(iii).

(H) DISTRIBUTION OF GRANTS.—

(i) IN GENERAL.—Subject to the availability of funds, an eligible entity may re-

quest and the Secretary may distribute funds for a grant under this subsection on a multiyear basis, as the Secretary determines to be necessary.

(ii) RURAL SET-ASIDE.—Of the amounts made available to carry out this subsection for each fiscal year, the Secretary shall use not less than 25 percent for grants for projects located in areas that are outside an urbanized area with a population of over 200,000.

(iii) TRIBAL SET-ASIDE.—Of the amounts made available to carry out this subsection for each fiscal year, the Secretary shall use not less than 2 percent for grants to Indian tribes (as defined in section 207(m)(1)).

(iv) REALLOCATION.—For any fiscal year, if the Secretary determines that the amount described in clause (ii) or (iii) will not be fully utilized for the grant described in that clause, the Secretary may reallocate the unutilized funds to provide grants to other eligible entities under this subsection.

(6) CONSULTATION.—In carrying out this subsection, the Secretary shall—

(A) consult with the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Secretary of Commerce; and

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

(7) GRANT ADMINISTRATION.—The Secretary may—

(A) retain not more than a total of 5 percent of the funds made available to carry out this subsection and to review applications for grants under this subsection; and

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

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

(1) FEDERAL SHARE REDUCTIONS.—

(A) IN GENERAL.—A State that receives funds apportioned to the State under section 104(b)(8) or an eligible entity that receives a grant under subsection (d) shall have the non-Federal share of a project carried out with the funds or grant, as applicable, reduced by an amount described in subparagraph (B) if the State or eligible entity meets the applicable requirements under that subparagraph.

(B) AMOUNT OF REDUCTIONS.—

(i) RESILIENCE IMPROVEMENT PLAN.—Subject to clause (iii), the amount of the non-Federal share of the costs of a project carried out with funds apportioned to a State under section 104(b)(8) or a grant under subsection (d) shall be reduced by 7 percentage points if—

(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the State or eligible entity has—

(aa) developed a resilience improvement plan in accordance with this subsection; and

(bb) prioritized the project on that resilience improvement plan; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that has—

(aa) developed a resilience improvement plan in accordance with this subsection; and

(bb) prioritized the project on that resilience improvement plan.

(ii) INCORPORATION OF RESILIENCE IMPROVEMENT PLAN IN OTHER PLANNING.—Subject to clause (iii), the amount of the non-Federal share of the cost of a project carried out with funds under subsection (c) or a grant under subsection (d) shall be reduced by 3 percentage points if—

(I) in the case of a State or an eligible entity that is a State or a metropolitan planning organization, the resilience improvement plan developed in accordance with this subsection has been incorporated into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable; and

(II) in the case of an eligible entity not described in subclause (I), the eligible entity is located in a State or an area served by a metropolitan planning organization that incorporated a resilience improvement plan into the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable.

(iii) LIMITATIONS.—

(I) MAXIMUM REDUCTION.—A State or eligible entity may not receive a reduction under this paragraph of more than 10 percentage points for any single project carried out with funds under subsection (c) or a grant under subsection (d).

(II) NO NEGATIVE NON-FEDERAL SHARE.—A reduction under this paragraph shall not reduce the non-Federal share of the costs of a project carried out with funds under subsection (c) or a grant under subsection (d) to an amount that is less than zero.

(2) PLAN CONTENTS.—A resilience improvement plan referred to in paragraph (1)—

(A) shall be for the immediate and long-range planning activities and investments of the State or metropolitan planning organization with respect to resilience of the surface transportation system within the boundaries of the State or metropolitan planning organization, as applicable;

(B) shall demonstrate a systemic approach to surface transportation system resilience and be consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T.

Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165);

(C) shall include a risk-based assessment of vulnerabilities of transportation assets and systems to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperatures, and earthquakes;

(D) may—

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

(ii) plan for response to anticipated emergencies, including plans for the mobility of—

(I) emergency response personnel and equipment; and

(II) access to emergency services, including for vulnerable or disadvantaged populations;

(iii) describe the resilience improvement policies, including strategies, land-use and zoning changes, investments in natural infrastructure, or performance measures that will inform the transportation investment decisions of the State or metropolitan planning organization with the goal of increasing resilience;

(iv) include an investment plan that—

(I) includes a list of priority projects; and

(II) describes how funds apportioned to the State under section 104(b)(8) or provided by a grant under the program would be invested and matched, which shall not be subject to fiscal constraint requirements; and

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

(E) shall, as appropriate—

(i) include a description of how the plan will improve the ability of the State or metropolitan planning organization—

(I) to respond promptly to the impacts of weather events and natural disasters; and

(II) to be prepared for changing conditions, such as sea level rise and increased flood risk;

(ii) describe the codes, standards, and regulatory framework, if any, adopted and enforced to ensure resilience improvements within the impacted area of proposed projects included in the resilience improvement plan;

(iii) consider the benefits of combining hard surface transportation assets, and natural infrastructure, through coordinated efforts by the Federal Government and the States;

(iv) assess the resilience of other community assets, including buildings and housing, emergency management assets, and energy, water, and communication infrastructure;

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

(vi) include such other information as the State or metropolitan planning organization considers appropriate.

(3) NO NEW PLANNING REQUIREMENTS.—Nothing in this section requires a metropolitan planning organization or a State to develop a resilience improvement plan or to include a resilience improvement plan under the metropolitan transportation plan under section 134 or the long-range statewide transportation plan under section 135, as applicable, of the metropolitan planning organization or State.

(f) MONITORING.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall—

(A) establish, for the purpose of evaluating the effectiveness and impacts of projects carried out with a grant under subsection (d)—

(i) subject to paragraph (2), transportation and any other metrics as the Secretary determines to be necessary; and

(ii) procedures for monitoring and evaluating projects based on those metrics; and

(B) select a representative sample of projects to evaluate based on the metrics and procedures established under subparagraph (A).

(2) NOTICE.—Before adopting any metrics described in paragraph (1), the Secretary shall—

(A) publish the proposed metrics in the Federal Register; and

(B) provide to the public an opportunity for comment on the proposed metrics.

(g) REPORTS.—

(1) REPORTS FROM ELIGIBLE ENTITIES.—Not later than 1 year after the date on which a project carried out with a grant under subsection (d) is completed, the eligible entity that carried out the project shall submit to the Secretary a report on the results of the project and the use of the funds awarded.

(2) REPORTS TO CONGRESS.—

(A) ANNUAL REPORTS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and publish on the website of the Department of Transportation, an annual report that describes the implementation of the program during the preceding calendar year, including—

(i) each project for which a grant was provided under subsection (d);

(ii) information relating to project applications received;

(iii) the manner in which the consultation requirements were implemented under subsection (d);

(iv) recommendations to improve the administration of subsection (d), including whether assistance from additional or fewer agencies to carry out the program is appropriate;

(v) the period required to disburse grant funds to eligible entities based on applicable Federal coordination requirements; and

(vi) a list of facilities that repeatedly require repair or reconstruction due to emergency events.

(B) FINAL REPORT.—Not later than 5 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report that includes the results of the reports submitted under subparagraph (A).

(h) 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 this chapter.

(Added Pub. L. 117–58, div. A, title I, § 11405(a), Nov. 15, 2021, 135 Stat. 561.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subssecs. (f)(1) and (g)(2)(B), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

#### § 177. Neighborhood access and equity grant program

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$1,893,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for competitive grants to eligible entities described in subsection (b)—

(1) to improve walkability, safety, and affordable transportation access through projects that are context-sensitive—

(A) to remove, remediate, or reuse a facility described in subsection (c)(1);

(B) to replace a facility described in subsection (c)(1) with a facility that is at-grade or lower speed;

(C) to retrofit or cap a facility described in subsection (c)(1);

(D) to build or improve complete streets, multiuse trails, regional greenways, or active transportation networks and spines; or

(E) to provide affordable access to essential destinations, public spaces, or transportation links and hubs;

(2) to mitigate or remediate negative impacts on the human or natural environment resulting from a facility described in subsection (c)(2) in a disadvantaged or underserved community through—

(A) noise barriers to reduce impacts resulting from a facility described in subsection (c)(2);

(B) technologies, infrastructure, and activities to reduce surface transportation-related greenhouse gas emissions and other air pollution;

(C) natural infrastructure, pervious, permeable, or porous pavement, or protective features to reduce or manage stormwater run-off resulting from a facility described in subsection (c)(2);

(D) infrastructure and natural features to reduce or mitigate urban heat island hot spots in the transportation right-of-way or on surface transportation facilities; or

(E) safety improvements for vulnerable road users; and

(3) for planning and capacity building activities in disadvantaged or underserved communities to—

(A) identify, monitor, or assess local and ambient air quality, emissions of transportation greenhouse gases, hot spot areas of extreme heat or elevated air pollution, gaps in tree canopy coverage, or flood prone transportation infrastructure;

(B) assess transportation equity or pollution impacts and develop local anti-displacement policies and community benefit agreements;

(C) conduct predevelopment activities for projects eligible under this subsection;

(D) expand public participation in transportation planning by individuals and organizations in disadvantaged or underserved communities; or

(E) administer or obtain technical assistance related to activities described in this subsection.

(b) ELIGIBLE ENTITIES DESCRIBED.—An eligible entity referred to in subsection (a) is—

(1) a State;

(2) a unit of local government;

(3) a political subdivision of a State;

(4) an entity described in section 207(m)(1)(E);

(5) a territory of the United States;

(6) a special purpose district or public authority with a transportation function;

(7) a metropolitan planning organization (as defined in section 134(b)(2)); or

(8) with respect to a grant described in subsection (a)(3), in addition to an eligible entity described in paragraphs (1) through (7), a non-profit organization or institution of higher education that has entered into a partnership with an eligible entity described in paragraphs (1) through (7).

(c) FACILITY DESCRIBED.—A facility referred to in subsection (a) is—

(1) a surface transportation facility for which high speeds, grade separation, or other design factors create an obstacle to connectivity within a community; or

(2) a surface transportation facility which is a source of air pollution, noise, stormwater, or other burden to a disadvantaged or underserved community.

(d) INVESTMENT IN ECONOMICALLY DISADVANTAGED COMMUNITIES.—

(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$1,262,000,000, to remain available until September 30, 2026,