

AASHTO Comprehensive Analysis of the Bipartisan Infrastructure Bill INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)

September 15, 2021

INTRODUCTION

After lengthy negotiations and debate, the United State Senate passed the Bipartisan Infrastructure Bill—the Infrastructure Investment and Jobs Act—by a vote of 69 to 30 on August 10, 2021.

The IIJA fully incorporates the Senate Environment and Public Works (EPW) Committee-passed [highway reauthorization](#) which increases Highway Trust Fund program funding from current law by 23.6 percent in FY 2022 (and adjusted for inflation beyond), and the Senate Commerce Committee-passed [rail and safety reauthorization](#) of General Fund programs. The IIJA also added reauthorization of federal transit programs from the Senate Banking Committee input, along with a host of policy and funding measures for all forms of infrastructure beyond transportation.

Following an unconventional process where a bipartisan bloc of senators took leadership of this package regardless of their committee assignments, IIJA provides \$113.3 billion in advance General Fund appropriations for various forms of infrastructure—including transportation—above and beyond authorization and funding of trust fund programs. While traditional General Fund authorization of program funding is subject to annual appropriations action and cannot be seen as “guaranteed” money, IIJA advance appropriations will provide guaranteed funding between FY 2022 and FY 2026. These unique general fund dollars are available until fully expended for certain new programs outside of the Highway Trust Fund such as the EV infrastructure formula program, or available for four years from initial allocation date such as the bridge formula program.

This AASHTO analysis provides a detailed review and analysis of surface transportation provisions in the IIJA. Any questions can be sent to jlee@ashto.org.

- [Bill Summary](#)
- [Legislative Text](#)

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AASHTO CORE POLICY PRINCIPLES SCORECARD

AASHTO CORE POLICY PRINCIPLES	INFRASTRUCTURE INVESTMENT AND JOBS ACT KEY FEATURES	
Ensure timely reauthorization of a long-term federal surface transportation bill		Provides five years of federal funding and policy stability from FY 2022 to 2026
Enact a long-term, sustainable revenue solution for the Highway Trust Fund		No revenue solution, though provides a \$118 billion General Fund transfer to HTF; Continues support of state user fee programs and creates a national user fee pilot program
Increase and prioritize formula-based federal funding provided to states		90 percent of total HTF highway funding is provided to states via core formula programs, including two new programs: Carbon Reduction and PROTECT (for resiliency)
Increase flexibility, reduce program burdens, and improve project delivery		Improves the environment review process by touching up on NEPA, Section 4(f), and stewardship and oversight agreement, among others
Support and ensure state DOTs' ability to harness innovation and technology		Provides substantial funding for EV infrastructure deployment and increased research and development funding

KEY FUNDING AND POLICY FEATURES

Investment Category	Amount
Baseline HTF Contract Authority, FY 2022-2026	\$293.5 billion
Additional HTF Contract Authority, FY 2022-2026	\$89.8 billion
Upfront USDOT Appropriations, FY2022-2026	\$184.1 billion
USDOT Total Budget Authority	\$ 567.4 billion

AGENCY	In \$ billions							
	2021 ACTUAL	202	2023	2024	2025	2026	TOTAL	AVG
HIGHWAYS/FHWA	49.0	67.7	69.0	70.3	71.5	72.9	351.3	70.3
TRANSIT/FTA	12.8	17.6	17.9	18.2	18.5	18.9	91.2	18.2
RAIL/FRA	2.5	13.2	13.2	13.2	13.2	13.2	66.0	13.2
SAFETY/NHTSA	1.0	1.3	1.3	1.3	1.4	1.4	6.7	1.3
SAFETY/FMCSA	0.7	1.0	1.0	1.0	1.0	1.0	5.1	1.0

- Provides \$351 billion for highways over five years from the Highway Trust Fund and General Fund, with \$307 billion provided as formula apportionments to states.
- Provides \$91 billion for transit, \$12 billion for highway safety, and \$66 billion for passenger rail over five years.
- Creates a new \$27.5 billion formula-based FHWA bridge program via advance General Fund appropriations
 - Eligible uses include highway bridge replacement, rehabilitation, preservation, protection, or construction projects on public roads
 - 75 percent distributed by state share of total cost of replacing “all bridges classified as poor”
 - 25 percent distributed by state share of total cost of rehabilitating “all bridges classified in fair condition”
 - \$45 million minimum per state per year
 - 15 percent per state off-system setaside at 100 percent federal share
- Creates a new \$5 billion EV charging infrastructure formula program
 - Provided to states to “strategically deploy electric vehicle charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability”
 - Eligible uses include EV charging infrastructure acquisition, installation, operation, maintenance, and data sharing
 - Distributed based on existing apportioned program state share at 80 percent federal share
 - State DOT plans required on use of funding for each fiscal year 2022 to 2026; if actions are not taken, funds could be reallocated to localities and other states
- Surface Transportation Block Grant Program suballocation is unchanged at 55 percent.
- Allows up to 10 percent of Highway Safety Improvement Program funds to be used for non-infrastructure activities.
- Improves the environment review process by touching up on NEPA, Section 4(f), and stewardship and oversight agreement, among others.
- Continues to support development of alternative user fees at the state level through the Strategic Innovation for Revenue Collection program, currently known as Surface Transportation System Funding Alternatives Program; also calls for a National Motor Vehicle Per-Mile User Fee Pilot Program.
- Substantially increases passenger rail funding by providing \$66 billion in advance General Fund appropriations, including for Amtrak, CRISI, fed-state partnership, and rail crossing elimination.
- Provides \$69.9 billion from the Mass Transit Account of the Highway Trust Fund for transit formula programs (31.6 percent increase from FAST Act between FY 2021 and FY 2022), and another \$21.3 billion in advance General Fund appropriations for Capital Investment Grants and for certain formula programs.
- Transfers \$118 billion from the General Fund to the Highway Trust Fund (\$90 billion to Highway Account; \$28 billion to Mass Transit Account).
- Creates new discretionary grant programs and increases existing discretionary grant program funding via advance General Fund appropriations between FY 2022 and FY 2026 including:
 - Existing: RAISE/BUILD/TIGER at \$7.5 billion
 - Existing: INFRA by \$3.2 billion
 - Existing: CRISI at \$5 billion
 - Existing: Federal-State Partnership for Intercity Passenger Rail at \$36 billion
 - Existing: Amtrak National Network at \$16 billion
 - Existing: Amtrak Northeast Corridor at \$6 billion
 - New: Bridge Investment Program (in addition to bridge formula program): \$9.2 billion

- New: National Infrastructure Project Assistance (for megaprojects) at \$5 billion
- New: Safe Streets and Roads for All at \$5 billion
- New: Culvert removal, replacement, and restoration at \$1 billion
- New: Strengthening Mobility and Revolutionizing Transportation Grant Program at \$500 million
- Increases requirements for Buy America (affecting projects receiving federal assistance) and Buy American (affecting direct federal government procurements)
 - Adds construction materials in addition to manufactured products, but exempts “cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives”
 - Centralizes Buy America/n oversight at the White House Office of Management and Budget by creating a new “Made in America Office”

DETAILED FUNDING TABLES



Funding Table for the Infrastructure Investment and Jobs Act

As Passed by the Senate on August 10, 2021 / In millions of dollars / HTF = Highway Trust Fund / GF = General Fund

Program Category	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	5-Year Total	5-Year Avg
HIGHWAYS								
National Highway Performance Program	24,239.4	28,439.4 17.3%	29,008.2 2.0%	29,588.4 2.0%	30,180.2 2.0%	30,783.8 2.0%	148,000.0	29,600.0
Surface Transportation Block Grant Program (Excluding TA Setaside)	11,929.4	12,451.9 4.4%	12,700.9 2.0%	12,955.0 2.0%	13,214.0 2.0%	13,478.3 2.0%	64,800.1	12,960.0
STBGP Transportation Alternative Program Setaside	850.0	1,383.5 62.8%	1,411.2 2.0%	1,439.4 2.0%	1,468.2 2.0%	1,497.6 2.0%	7,199.9	1,440.0
Highway Safety Improvement Program	2,407.8	2,979.8 23.8%	3,044.3 2.2%	3,110.2 2.2%	3,177.4 2.2%	3,245.9 2.2%	15,557.6	3,111.5
Railway-Highway Grade Crossings Program	245.0	245.0 0.0%	245.0 0.0%	245.0 0.0%	245.0 0.0%	245.0 0.0%	1,225.0	245.0
Congestion Mitigation and Air Quality Improvement Program	2,493.6	2,536.5 1.7%	2,587.2 2.0%	2,639.0 2.0%	2,691.7 2.0%	2,745.6 2.0%	13,200.0	2,640.0
Metropolitan Planning Program	357.9	438.1 22.4%	446.9 2.0%	455.8 2.0%	464.9 2.0%	474.2 2.0%	2,279.9	456.0
National Highway Freight Program	1,487.3	1,373.9 -7.6%	1,401.4 2.0%	1,429.4 2.0%	1,458.0 2.0%	1,487.2 2.0%	7,149.9	1,430.0
Carbon Reduction Program		1,233.7	1,258.3 2.0%	1,283.5 2.0%	1,309.2 2.0%	1,335.3 2.0%	6,420.0	1,284.0
PROTECT Formula Program		1,402.8	1,430.8 2.0%	1,459.4 2.0%	1,488.6 2.0%	1,518.4 2.0%	7,300.0	1,460.0
Bridge Formula Program	1,080.0	5,500.0 409.3%	5,500.0 0.0%	5,500.0 0.0%	5,500.0 0.0%	5,500.0 0.0%	27,500.0	5,500.0
Electric Vehicle Formula Program		1,000.0	1,000.0 0.0%	1,000.0 0.0%	1,000.0 0.0%	1,000.0 0.0%	5,000.0	1,000.0
Ferry Boats and Facilities	80.0	178.4 123.0%	180.4 1.1%	182.4 1.1%	184.4 1.1%	186.4 1.1%	912.0	182.4
Total, Formula Programs (HTF, GF)	45,170.4	59,163.0 31.0%	60,214.6 1.8%	61,287.5 1.8%	62,381.6 1.8%	63,497.7 1.8%	306,544.4	61,308.9
TIFIA	300.0	250.0 -16.7%	250.0 0.0%	250.0 0.0%	250.0 0.0%	250.0 0.0%	1,250.0	250.0
Tribal Transportation Program	505.0	578.5 14.6%	590.0 2.0%	602.5 2.1%	613.0 1.7%	628.0 2.4%	3,012.0	602.4
Federal Lands Transportation Program	375.0	422.0 12.5%	430.0 1.9%	439.0 2.1%	448.0 2.1%	456.0 1.8%	2,195.0	439.0
Federal Lands Access Program	270.0	286.0 5.9%	292.0 2.1%	297.0 1.7%	304.0 2.4%	309.0 1.6%	1,488.0	297.6
Territorial and Puerto Rico Highway Program	203.4	219.0 7.7%	224.0 2.3%	228.0 1.8%	232.5 2.0%	237.0 1.9%	1,140.5	228.1
Projects of National and Regional Significance (INFRA Grants)	1,000.0	1,640.0 64.0%	1,640.0 0.0%	1,640.0 0.0%	1,540.0 -6.1%	1,540.0 0.0%	8,000.0	1,600.0
FHWA Administrative Expenses	480.8	491.0 2.1%	500.8 2.0%	510.8 2.0%	521.0 2.0%	531.4 2.0%	2,555.0	511.0
SAFETEA-LU Allocated Safety Set-Aside	3.5	3.5 0.0%	3.5 0.0%	3.5 0.0%	3.5 0.0%	3.5 0.0%	17.5	3.5
Emergency Relief	100.0	100.0 0.0%	100.0 0.0%	100.0 0.0%	100.0 0.0%	100.0 0.0%	500.0	100.0
Total, Existing Allocated Programs (HTF)	3,237.7	3,990.0 23.2%	4,030.3 1.0%	4,070.8 1.0%	4,012.0 -1.4%	4,054.9 1.1%	20,158.0	4,031.6
Bridge Discretionary Grants		2,447.0	2,487.0 1.6%	2,497.0 0.4%	2,522.0 1.0%	2,547.0 1.0%	12,500.0	2,500.0
Congestion Relief Discretionary Grants		50.0	50.0 0.0%	50.0 0.0%	50.0 0.0%	50.0 0.0%	250.0	50.0
Charging and Fueling Infrastructure Discretionary Grants		300.0	400.0 33.3%	500.0 25.0%	600.0 20.0%	700.0 16.7%	2,500.0	500.0
Rural Surface Transportation Discretionary Grants		300.0	350.0 16.7%	400.0 14.3%	450.0 12.5%	500.0 11.1%	2,000.0	400.0
PROTECT Discretionary Grants		250.0	250.0 0.0%	300.0 20.0%	300.0 0.0%	300.0 0.0%	1,400.0	280.0
Reduce Truck Emissions at Port Facilities Discretionary Grants		80.0	80.0 0.0%	80.0 0.0%	80.0 0.0%	80.0 0.0%	400.0	80.0
Nat. Signif. Fed. Lands and Tribal Projects Discretionary Grants	100.0	55.0 -45.0%	55.0 0.0%	55.0 0.0%	55.0 0.0%	55.0 0.0%	275.0	55.0
Total, New Allocated Programs (GF)	100.0	3,482.0 3382.0%	3,672.0 5.5%	3,882.0 5.7%	4,057.0 4.5%	4,232.0 4.3%	19,325.0	3,865.0
Highway Research Program	125.0	147.0 17.6%	147.0 0.0%	147.0 0.0%	147.0 0.0%	147.0 0.0%	735.0	147.0
Technology and Innovation Deployment Program	67.5	110.0 63.0%	110.0 0.0%	110.0 0.0%	110.0 0.0%	110.0 0.0%	550.0	110.0
Training and Education	24.0	25.0 4.2%	25.3 1.2%	25.5 0.8%	25.8 1.2%	26.0 0.8%	127.6	25.5
Intelligent Transportation Systems Program	100.0	110.0 10.0%	110.0 0.0%	110.0 0.0%	110.0 0.0%	110.0 0.0%	550.0	110.0
University Transportation Centers Program	77.5	99.0 27.7%	99.5 0.5%	100.0 0.5%	100.5 0.5%	101.0 0.5%	500.0	100.0
Bureau of Transportation Statistics	26.0	26.0 0.0%	26.3 1.2%	26.5 0.8%	26.8 1.1%	27.0 0.7%	132.6	26.5
Total, Research Programs (HTF)	420.0	517.0 23.1%	518.1 0.2%	519.0 0.2%	520.1 0.2%	521.0 0.2%	2,595.2	519.0
Wildlife Crossings Pilot Program		60.0	65.0 8.3%	70.0 7.7%	75.0 7.1%	80.0 6.7%	350.0	70.0
Prioritization Process Pilot Program		10.0	10.0 0.0%	10.0 0.0%	10.0 0.0%	10.0 0.0%	50.0	10.0
Reconnecting Communities Pilot Program		195.0	198.0 1.5%	200.0 1.0%	202.0 1.0%	205.0 1.5%	1,000.0	200.0
Appalachian Development Highway System	100.0	250.0 150.0%	250.0 0.0%	250.0 0.0%	250.0 0.0%	250.0 0.0%	1,250.0	250.0
Competitive Grade Crossing Grants	50.0	0.0 -100.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0	0.0
National Scenic Byways Program	16.0	0.0 -100.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0	0.0
Other FY21 Priorities	10.0	0.0 -100.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0 0.0%	0.0	0.0
Total, Other Programs (HTF, GF)	176.0	515.0 192.6%	523.0 1.6%	530.0 1.3%	537.0 1.3%	545.0 1.5%	2,650.0	530.0
Total, Federal-Aid Highway Program (HTF, GF)	49,104.1	67,667.0 37.8%	68,958.0 1.9%	70,289.3 1.9%	71,507.7 1.7%	72,850.6 1.9%	351,272.6	70,254.5

TRANSIT													
Planning Programs	142.0	184.6	30.0%	188.5	2.1%	193.4	2.6%	197.4	2.1%	202.4	2.5%	966.3	193.3
Pilot Program for Transit-Oriented Development Planning	10.0	13.2	32.0%	13.4	1.5%	13.8	3.0%	14.1	2.2%	14.4	2.1%	68.9	13.8
Urbanized Area Formula	4,929.5	6,408.3	30.0%	6,542.2	2.1%	6,713.0	2.6%	6,851.7	2.1%	7,025.8	2.5%	33,541.0	6,708.2
Elderly/Disabled Formula	285.6	421.2	47.5%	429.0	1.9%	438.9	2.3%	446.9	1.8%	457.0	2.3%	2,193.0	438.6
Access/Mobility Pilot	3.5	4.6	31.4%	4.7	2.2%	4.8	2.1%	4.9	2.1%	5.0	2.0%	24.0	4.8
Rural Formula	713.3	875.3	22.7%	893.6	2.1%	916.9	2.6%	935.8	2.1%	959.6	2.5%	4,581.2	916.2
Research	35.0	36.8	5.1%	37.6	2.2%	38.6	2.7%	39.4	2.1%	40.4	2.5%	192.8	38.6
Technical Assistance / Workforce	4.0	11.8	195.0%	12.1	2.5%	12.4	2.5%	12.7	2.4%	13.0	2.4%	62.0	12.4
Bus Testing Facility	5.0	5.0	0.0%	5.1	2.0%	5.2	2.0%	5.3	1.9%	5.5	3.8%	26.1	5.2
Administrative Expenses	121.1	131.0	8.2%	134.9	3.0%	139.0	3.0%	143.1	2.9%	147.4	3.0%	695.4	139.1
National Transit Database	4.0	5.3	32.5%	5.4	1.9%	5.5	1.9%	5.6	1.8%	5.8	3.6%	27.6	5.5
State of Good Repair Formula	2,723.8	4,465.5	63.9%	4,537.8	1.6%	4,630.9	2.1%	4,705.7	1.6%	4,800.5	2.0%	23,140.4	4,628.1
Bus Formula	582.6	604.0	3.7%	616.6	2.1%	632.7	2.6%	645.8	2.1%	662.2	2.5%	3,161.3	632.3
Bus Competitive	414.0	375.7	-9.3%	383.5	2.1%	393.6	2.6%	401.7	2.1%	411.9	2.5%	1,966.4	393.3
Low-No Emission Buses	180.0	1,121.6	523.1%	1,123.1	0.1%	1,125.0	0.2%	1,126.5	0.1%	1,128.5	0.2%	5,624.7	1,124.9
Fast-Growth State Supplement	300.7	392.8	30.6%	401.0	2.1%	411.4	2.6%	419.9	2.1%	430.6	2.5%	2,055.7	411.1
High-Density State Supplement	309.4	348.3	12.6%	355.6	2.1%	364.9	2.6%	372.4	2.1%	381.9	2.6%	1,823.1	364.6
Areas of Persistent Poverty	16.2	0.0	-100.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0
Total, Transit Formula Grants (HTF, GF)	10,779.7	15,405.0	42.9%	15,684.1	1.8%	16,040.0	2.3%	16,328.9	1.8%	16,691.9	2.2%	80,149.9	16,030.0
New Starts	1,169.0	880.0	-24.7%	880.0	0.0%	880.0	0.0%	880.0	0.0%	880.0	0.0%	4,400.0	880.0
Core Capacity	525.0	320.0	-39.0%	320.0	0.0%	320.0	0.0%	320.0	0.0%	320.0	0.0%	1,600.0	320.0
Small Starts	200.0	240.0	20.0%	240.0	0.0%	240.0	0.0%	240.0	0.0%	240.0	0.0%	1,200.0	240.0
Project Delivery Pilot	100.0	160.0	60.0%	160.0	0.0%	160.0	0.0%	160.0	0.0%	160.0	0.0%	800.0	160.0
Oversight Set-Aside	20.0	0.0	-100.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0
Total, Capital Investment Grants (GF)	2,014.0	1,600.0	-20.6%	1,600.0	0.0%	1,600.0	0.0%	1,600.0	0.0%	1,600.0	0.0%	8,000.0	1,600.0
Accessibility Upgrades to Legacy Assets		350.0		350.0	0.0%	350.0	0.0%	350.0	0.0%	350.0	0.0%	1,750.0	350.0
Electric or Low-Emission Ferry Program		50.0		50.0	0.0%	50.0	0.0%	50.0	0.0%	50.0	0.0%	250.0	50.0
Ferry Service for Rural Communities		200.0		200.0	0.0%	200.0	0.0%	200.0	0.0%	200.0	0.0%	1,000.0	200.0
Total, Federal Transit Program (HTF, GF)	12,793.7	17,605.0	37.6%	17,884.1	1.6%	18,240.0	2.0%	18,528.9	1.6%	18,891.9	2.0%	91,149.9	18,230.0
HIGHWAY SAFETY													
Highway Safety Programs	279.8	383.4	37.0%	390.9	2.0%	398.4	1.9%	405.9	1.9%	413.4	1.8%	1,992.0	398.4
Highway Safety R&D	149.8	186.0	24.2%	190.0	2.2%	194.0	2.1%	198.0	2.1%	202.0	2.0%	970.0	194.0
High-Visibility Enforcement	30.5	36.4	19.3%	38.3	5.2%	40.3	5.2%	42.3	5.0%	44.3	4.7%	201.6	40.3
National Priority Safety Programs	285.9	358.5	25.4%	368.5	2.8%	375.5	1.9%	382.5	1.9%	389.5	1.8%	1,874.5	374.9
Chapter 4 Administrative Expenses	26.8	58.0	116.4%	59.5	2.6%	61.1	2.7%	62.7	2.6%	64.5	2.9%	305.8	61.2
National Driver Register	5.5	6.8	23.6%	7.0	2.9%	7.2	2.9%	7.4	2.8%	7.6	2.7%	36.0	7.2
Crash Data		150.0		150.0	0.0%	150.0	0.0%	150.0	0.0%	150.0	0.0%	750.0	150.0
Vehicle Safety Activities	211.2	109.7	-48.1%	109.7	0.0%	109.7	0.0%	109.7	0.0%	109.7	0.0%	548.5	109.7
Total, National Highway Traffic Safety Administration (HTF, GF)	989.5	1,288.8	30.2%	1,313.9	1.9%	1,336.2	1.7%	1,358.5	1.7%	1,381.0	1.7%	6,678.4	1,335.7
Motor Carrier Safety Assistance Prog.	308.7	470.5	52.4%	478.5	1.7%	486.5	1.7%	494.5	1.6%	502.5	1.6%	2,432.5	486.5
High-Priority Program	44.9	84.1	87.3%	85.3	1.4%	86.5	1.4%	87.7	1.4%	88.9	1.4%	432.5	86.5
Commercial Motor Vehicle Enforcement		5.0		5.0	0.0%	5.0	0.0%	5.0	0.0%	5.0	0.0%	25.0	5.0
Commercial Motor Vehicle Operators Grants	1.0	3.1	210.0%	3.2	3.2%	3.3	3.1%	3.4	3.0%	3.5	2.9%	16.5	3.3
Commercial Drivers License Program	33.2	57.8	74.1%	58.7	1.6%	59.5	1.4%	60.4	1.5%	61.2	1.3%	297.6	59.5
Administrative Expenses	268.0	370.0	28.5%	377.5	2.0%	385.0	2.0%	392.5	1.9%	400.0	1.9%	1,925.0	385.0
Total, Federal Motor Carrier Safety Administration (HTF, GF)	675.8	990.5	46.6%	1,008.2	1.8%	1,025.8	1.7%	1,043.5	1.7%	1,061.1	1.7%	5,129.1	1,025.8
Total, Highway Safety Program	1,665.3	2,279.3	36.9%	2,322.1	1.9%	2,362.0	1.7%	2,402.0	1.7%	2,442.1	1.7%	11,807.5	2,361.5
PASSENGER RAIL													
Consolidated Rail Infrastructure and Safety Improvements Grants	330	1,000.0	203.0%	1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	5,000.0	1,000.0
Amtrak - Northeast Corridor	600	1,200.0	100.0%	1,200.0	0.0%	1,200.0	0.0%	1,200.0	0.0%	1,200.0	0.0%	6,000.0	1,200.0
Amtrak - National Network	1,200	3,200.0	166.7%	3,200.0	0.0%	3,200.0	0.0%	3,200.0	0.0%	3,200.0	0.0%	16,000.0	3,200.0
Railroad Crossing Elimination Program		600.0		600.0	0.0%	600.0	0.0%	600.0	0.0%	600.0	0.0%	3,000.0	600.0
Federal-State Partnership for IPR Grants	300	7,200.0	2300.0%	7,200.0	0.0%	7,200.0	0.0%	7,200.0	0.0%	7,200.0	0.0%	36,000.0	7,200.0
Total, Passenger Rail Program (GF)	2,430	13,200.0	443.2%	13,200.0	0.0%	13,200.0	0.0%	13,200.0	0.0%	13,200.0	0.0%	66,000.0	13,200.0
OFFICE OF THE SECRETARY													
National Infrastructure Project Assistance Discretionary Grants		1,000.0		1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	5,000.0	1,000.0
Local and Regional Project Assistance (RAISE) Discretionary Grants	1,000	1,500.0	50.0%	1,500.0	0.0%	1,500.0	0.0%	1,500.0	0.0%	1,500.0	0.0%	7,500.0	1,500.0
Safe Streets and Roads for All Discretionary Grants		1,000.0		1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	1,000.0	0.0%	5,000.0	1,000.0
National Culvert Removal/Replacement/Restoration Disc. Grants		200.0		200.0	0.0%	200.0	0.0%	200.0	0.0%	200.0	0.0%	1,000.0	200.0
Strengthening Mobility and Revolutionizing Transportation Disc. Grants		100.0		100.0	0.0%	100.0	0.0%	100.0	0.0%	100.0	0.0%	500.0	100.0
Total, Office of the Secretary (GF)	1,000	3,800.0	280.0%	3,800.0	0.0%	3,800.0	0.0%	3,800.0	0.0%	3,800.0	0.0%	19,000.0	3,800.0
GRAND TOTAL (HTF, GF)	66,993.1	104,551.3	56.1%	106,164.2	1.5%	107,891.3	1.6%	109,438.6	1.4%	111,184.6	1.6%	539,230.0	107,846.0
Program Category	FY 2021	FY 2022		FY 2023		FY 2024		FY 2025		FY 2026		5-Year Total	5-Year Avg

**TOTAL FY 2022 - FY 2026 ESTIMATED APPORTIONMENTS, PUERTO RICO HIGHWAY PROGRAM, AND OTHER PROGRAMS DISTRIBUTED
BY FORMULA UNDER THE SENATE AMENDMENT IN THE NATURE OF A SUBSTITUTE AS INTRODUCED TO H.R. 3684
(INFRASTRUCTURE INVESTMENT AND JOBS ACT)**

State	Federal-aid Highway Apportioned Programs 1/	Puerto Rico Highway Program	General Fund Supplemental Appropriations				Total
			Bridge Replacement, Rehabilitation, Preservation, Protection and Construction Program 2/, 3/	National Vehicle Electric Formula Program 4/, 5/, 6/	Construction of Ferry Boats and Ferry Terminal Facilities Program 6/, 7/, 8/, 9/	Appalachian Development Highway System 6/, 10/	
Alabama	5,230,581,235	-	225,000,000	79,308,285	775,390	[TBS]	5,535,664,910
Alaska	3,456,928,771	-	225,000,000	52,415,294	73,062,300	[TBS]	3,807,406,365
American Samoa	-	-	-	-	1,725,105	[TBS]	1,725,105
Arizona	5,044,328,461	-	225,000,000	76,483,976	-	[TBS]	5,345,812,437
Arkansas	3,569,480,430	-	278,666,625	54,121,947	303,650	[TBS]	3,902,572,652
California	25,304,432,195	-	4,245,358,265	383,673,792	24,563,745	[TBS]	29,958,027,997
Colorado	3,728,756,371	-	225,000,000	56,536,754	-	[TBS]	4,010,293,125
Connecticut	3,462,774,592	-	561,259,115	52,503,813	458,815	[TBS]	4,076,996,335
Delaware	1,166,239,359	-	225,000,000	17,682,951	488,980	[TBS]	1,409,411,290
Dist. of Col.	1,100,055,907	-	225,000,000	16,679,459	-	[TBS]	1,341,735,366
Florida	13,062,390,205	-	244,895,455	198,057,481	2,895,285	[TBS]	13,508,238,426
Georgia	8,901,980,338	-	225,000,000	134,975,283	4,538,810	[TBS]	9,266,494,431
Hawaii	1,166,068,214	-	339,025,730	17,680,364	374,415	[TBS]	1,523,148,723
Idaho	1,971,924,882	-	225,000,000	29,899,106	-	[TBS]	2,226,823,988
Illinois	9,802,000,344	-	1,373,444,455	148,621,459	6,895,645	[TBS]	11,330,961,903
Indiana	6,569,262,951	-	400,567,730	99,605,738	-	[TBS]	7,069,436,419
Iowa	3,388,270,559	-	431,646,890	51,374,369	-	[TBS]	3,871,291,818
Kansas	2,605,337,335	-	225,000,000	39,503,201	-	[TBS]	2,869,840,536
Kentucky	4,580,778,665	-	438,188,650	69,455,682	1,999,365	[TBS]	5,090,422,362
Louisiana	4,838,787,977	-	1,012,892,355	73,367,735	11,394,805	[TBS]	5,936,442,872
Maine	1,272,651,814	-	225,000,000	19,296,432	4,607,710	[TBS]	1,521,555,956
Maryland	4,143,063,176	-	409,482,520	62,818,576	97,515	[TBS]	4,615,461,787
Massachusetts	4,187,250,997	-	1,125,840,090	63,488,497	9,097,520	[TBS]	5,385,677,104
Michigan	7,258,873,235	-	562,958,680	110,061,712	8,747,515	[TBS]	7,940,641,142
Minnesota	4,495,657,884	-	302,148,915	68,164,918	6,088,795	[TBS]	4,872,060,512
Mississippi	3,334,400,129	-	225,000,000	50,557,563	253,325	[TBS]	3,610,211,017
Missouri	6,526,743,892	-	484,163,365	98,961,186	270,630	[TBS]	7,110,139,073
Montana	2,828,704,545	-	225,000,000	42,889,962	16,660	[TBS]	3,096,611,167
Nebraska	1,992,746,878	-	225,000,000	30,214,832	-	[TBS]	2,247,961,710
Nevada	2,503,467,466	-	225,000,000	37,958,457	-	[TBS]	2,766,425,923
New Hampshire	1,139,107,791	-	225,000,000	17,271,581	-	[TBS]	1,381,379,372
New Jersey	6,883,719,399	-	1,146,780,115	104,373,268	24,407,410	[TBS]	8,159,280,192
New Mexico	2,531,780,841	-	225,000,000	38,387,895	-	[TBS]	2,795,168,736
New York	11,572,530,054	-	1,891,375,585	175,466,514	19,538,015	[TBS]	13,658,910,168
North Carolina	7,190,435,303	-	456,689,090	109,024,196	6,794,935	[TBS]	7,762,943,524
North Dakota	1,711,634,763	-	225,000,000	25,952,484	-	[TBS]	1,962,587,247
Ohio	9,241,307,610	-	483,227,530	140,120,116	778,200	[TBS]	9,865,433,456
Oklahoma	4,372,453,210	-	266,837,455	66,296,972	100,395	[TBS]	4,705,688,032
Oregon	3,445,982,162	-	268,222,155	52,249,356	2,420,290	[TBS]	3,768,873,963
Pennsylvania	11,311,822,975	-	1,635,363,335	171,514,120	-	[TBS]	13,118,700,430
Puerto Rico	-	900,995,000	225,000,000	13,661,153	2,078,620	[TBS]	1,141,734,773
Rhode Island	1,507,774,086	-	241,923,455	22,861,459	1,291,360	[TBS]	1,773,850,360
South Carolina	4,616,596,603	-	274,233,180	69,998,769	452,935	[TBS]	4,961,281,487
South Dakota	1,944,277,502	-	225,000,000	29,479,906	-	[TBS]	2,198,757,408
Tennessee	5,825,924,138	-	302,031,120	88,334,969	563,430	[TBS]	6,216,853,657
Texas	26,893,823,563	-	537,167,465	407,774,759	15,588,850	[TBS]	27,854,354,637
Utah	2,393,988,287	-	225,000,000	36,298,604	80,840	[TBS]	2,655,367,731
Vermont	1,399,236,981	-	225,000,000	21,215,761	-	[TBS]	1,645,452,742
Virginia	7,015,791,245	-	536,761,305	106,376,132	8,059,995	[TBS]	7,666,988,677
Washington	4,673,755,966	-	604,875,170	70,865,271	93,818,125	[TBS]	5,443,314,532
West Virginia	3,012,922,790	-	506,474,200	45,683,164	11,875	[TBS]	3,565,092,029
Wisconsin	5,187,482,870	-	225,000,000	78,654,701	2,228,745	[TBS]	5,493,366,316
Wyoming	1,766,213,054	-	225,000,000	26,780,026	-	[TBS]	2,017,993,080
Apportioned Total	273,132,500,000	900,995,000	26,537,500,000	4,155,000,000	336,870,000		305,062,865,000

1/ Reflects \$3,500,000 takedown for safety-related programs for each fiscal year and amounts are before post-apportionment set-asides; before penalties; before sequestration.

2/ Excludes 3 percent set aside each fiscal year to carry out section 202(d) of title 23, United States Code.

3/ Excludes 0.5 percent set aside each fiscal year for administration.

4/ Excludes \$300,000,000 set aside for transfer to the Joint Office of Energy and Transportation.

5/ Excludes 10 percent set aside each fiscal year for grants to States or localities that require additional assistance to strategically deploy electric vehicle charging infrastructure.

6/ Excludes 1.5 percent set aside each fiscal year for administration.

7/ The funds are distributed by formula, as defined in 147(d) of title 23, United States Code.

8/ Data used to determine the distribution amounts is collected through the biennial National Census of Ferry Operators (NCFO). The FY 2020 distribution was based on the data contained in the 2018 NCFO.

9/ Distributions are not revised to reflect application of the guaranteed minimum distribution amount, per 147(f) of title 23, United States Code. The guaranteed minimum amount under 23 U.S.C. 147(f) is based on the total amount received for the program under 23 U.S.C. 147 for a fiscal year.

10/ The Appalachian Regional Commission determines the final calculations and distribution amounts by State.

DIVISION C—TRANSIT
State Amounts FYs 2022 - 2026

State	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY22 - 26 Grand Totals
Alabama	59,128,733	77,467,336	79,010,584	81,077,386	82,755,211	84,862,652	405,173,168
Alaska	55,875,048	70,464,674	71,925,859	73,870,815	75,441,975	77,423,709	369,127,032
America Samoa	1,480,564	1,935,581	1,976,018	2,027,614	2,069,500	2,122,110	10,130,823
Arizona	130,277,203	168,726,159	172,382,224	176,916,485	180,594,962	185,217,921	883,837,751
Arkansas	36,747,359	48,152,160	49,274,249	50,563,795	51,610,539	52,925,422	252,526,164
California	1,417,700,550	1,803,268,791	1,841,180,788	1,890,522,212	1,930,440,759	1,980,726,543	9,446,139,093
Colorado	135,469,435	174,903,353	178,775,863	183,504,384	187,337,349	192,157,781	916,678,729
Connecticut	200,684,201	249,586,741	254,675,083	261,505,210	267,029,567	273,990,153	1,306,786,753
Delaware	33,965,838	43,212,542	44,067,153	45,220,197	46,156,235	47,331,951	225,988,078
District of Columbia	198,790,563	241,385,286	247,962,402	254,897,453	260,472,116	267,533,099	1,272,250,355
Florida	390,807,581	504,374,801	514,648,943	528,255,099	539,285,205	553,155,999	2,639,720,047
Georgia	203,781,711	260,250,760	266,076,121	273,187,607	278,942,766	286,190,697	1,364,647,952
Guam	2,030,596	2,666,955	2,722,671	2,793,763	2,851,475	2,923,965	13,958,829
Hawaii	46,360,017	60,319,531	61,623,818	63,240,793	64,553,144	66,201,856	315,939,142
Idaho	29,111,271	37,922,574	38,678,351	39,690,105	40,511,445	41,543,093	198,345,568
Illinois	605,274,090	760,893,658	777,597,249	798,669,080	815,687,761	837,157,413	3,990,005,161
Indiana	100,114,798	130,479,936	133,019,799	136,510,414	139,343,147	142,902,219	682,255,514
Iowa	45,284,047	59,282,868	60,451,942	62,034,372	63,318,266	64,932,460	310,020,569
Kansas	39,812,513	52,136,170	53,169,648	54,560,745	55,690,034	57,108,484	272,665,081
Kentucky	56,986,706	74,689,279	76,166,667	78,159,600	79,777,459	81,809,580	390,602,585
Louisiana	69,003,264	89,661,391	91,625,868	94,037,216	95,993,173	98,451,639	469,769,287
Maine	35,877,513	45,997,251	46,931,863	48,182,990	49,195,806	50,470,996	240,778,906
Maryland	264,723,168	331,212,041	338,244,895	347,266,999	354,570,748	363,766,403	1,735,061,085
Massachusetts	390,629,919	483,061,560	493,685,024	507,005,088	517,769,403	531,342,140	2,532,863,215
Michigan	149,363,899	194,861,063	198,840,325	204,050,870	208,280,371	213,593,293	1,019,625,923
Minnesota	121,653,743	156,579,242	159,949,870	164,190,129	167,625,940	171,948,361	820,293,541
Mississippi	32,460,104	42,570,031	43,433,013	44,568,413	45,490,128	46,647,854	222,709,439
Missouri	100,038,476	128,954,255	131,966,099	135,466,535	138,302,508	141,870,701	676,560,098
Montana	24,103,389	31,422,881	32,062,838	32,900,859	33,581,162	34,435,660	164,403,400
N. Mariana Islands	1,460,893	1,909,466	1,949,357	2,000,257	2,041,577	2,093,478	9,994,134
Nebraska	28,087,516	36,637,118	37,365,946	38,343,437	39,136,961	40,133,672	191,617,134
Nevada	67,909,775	88,280,383	89,984,461	92,348,833	94,267,315	96,678,006	461,558,997
New Hampshire	19,167,369	25,058,001	25,554,809	26,223,404	26,766,169	27,447,910	131,050,293
New Jersey	635,007,959	791,816,296	808,249,664	829,899,859	847,415,865	869,480,507	4,146,862,190
New Mexico	55,205,812	71,158,834	72,581,263	74,504,418	76,062,738	78,023,161	372,330,414
New York	1,504,697,602	1,870,051,474	1,910,232,484	1,962,220,153	2,004,180,683	2,057,144,669	9,803,829,463
North Carolina	133,305,237	173,951,559	177,633,437	182,290,718	186,070,606	190,819,296	910,765,617
North Dakota	16,997,127	22,169,755	22,617,418	23,208,757	23,688,804	24,291,771	115,976,505
Ohio	190,344,455	245,545,352	250,765,917	257,407,172	262,789,266	269,559,357	1,286,067,064
Oklahoma	52,383,097	67,628,061	69,142,608	70,951,831	72,420,439	74,265,216	354,408,156
Oregon	111,578,858	142,804,324	146,167,314	150,063,632	153,218,104	157,189,420	749,442,794
Pennsylvania	428,755,169	540,285,302	552,209,617	567,145,511	579,211,562	594,430,013	2,833,282,005
Puerto Rico	67,209,921	86,814,543	88,689,553	91,031,932	92,931,168	95,319,169	454,786,365
Rhode Island	42,531,147	52,929,188	53,984,115	55,413,296	56,571,510	58,028,416	276,926,525
South Carolina	54,232,519	70,908,245	72,306,961	74,199,097	75,735,129	77,664,470	370,813,901
South Dakota	19,306,358	24,969,028	25,478,126	26,144,015	26,684,581	27,363,563	130,639,314
Tennessee	92,754,656	120,861,019	123,442,133	126,684,627	129,315,522	132,621,517	632,924,817
Texas	482,642,478	624,438,817	637,451,185	654,278,708	667,923,218	685,078,589	3,269,170,516
Utah	93,457,694	119,442,235	122,171,567	125,432,609	128,072,325	131,396,054	626,514,790
Vermont	12,124,804	15,889,990	16,213,393	16,637,170	16,981,191	17,413,301	83,135,046
Virgin Islands	2,811,951	3,658,240	3,729,939	3,827,568	3,906,823	4,006,371	19,128,940
Virginia	179,602,739	233,913,761	238,547,230	244,806,288	249,886,338	256,268,270	1,223,421,887
Washington	268,115,003	341,843,695	349,056,755	358,387,090	365,938,328	375,447,758	1,790,673,626
West Virginia	28,599,775	37,389,535	38,304,361	39,308,191	40,122,843	41,146,363	196,271,294
Wisconsin	87,240,937	113,577,590	115,995,817	119,036,361	121,504,203	124,604,445	594,718,417
Wyoming	14,473,140	19,009,034	19,399,342	19,906,221	20,317,704	20,834,550	99,466,851
Subtotal	9,667,540,287	12,269,379,713	12,531,349,996	12,866,577,380	13,137,839,786	13,479,493,468	64,284,640,343
Oversight	72,798,004	91,903,306	93,874,007	96,398,254	98,438,603	101,010,816	481,624,986
Reapportioned Funds	-	-	-	-	-	-	-
Total	9,740,338,292	12,361,283,019	12,625,224,003	12,962,975,634	13,236,278,389	13,580,504,284	64,766,265,329

Discretionary / Competitive Programs

Transit Oriented Development (Discretionary Pilot) --> m	10,000,000	13,157,184	13,432,051	13,782,778	14,067,497	14,425,121	68,864,631
Passenger Ferry Boat Program	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000	150,000,000
Pilot Program for Enhanced Mobility	3,500,000	4,605,014	4,701,218	4,823,972	4,923,624	5,048,792	24,102,620
Public Transportation on Indian Reservations Competitive	5,000,000	8,752,896	8,935,753	9,169,076	9,358,487	9,596,398	45,812,610
Transit Research	20,000,000	36,840,115	37,369,743	38,591,779	39,388,993	40,390,337	192,820,967
Technical Assistance and Workforce Development	9,000,000	11,841,465	12,088,846	12,404,500	12,660,748	12,982,608	61,978,167
Bus Testing Facilities	3,000,000	5,000,000	5,104,455	5,237,739	5,345,938	5,481,842	26,169,974
National Transit Database	4,000,000	5,262,874	5,372,820	5,513,111	5,626,999	5,770,048	27,545,852
Bus and Bus Facilities Competitive Grants	344,044,179	447,257,433	456,601,111	468,523,511	478,202,088	490,358,916	2,340,943,059
Railcar Replacement Program Competitive Grants	-	300,000,000	300,000,000	300,000,000	300,000,000	300,000,000	1,500,000,000
Administrative Expenses	-	131,000,000	134,930,000	138,977,900	143,147,237	147,441,654	695,496,791
Total	428,544,179	993,716,981	1,008,775,997	1,027,024,366	1,042,721,611	1,061,495,716	5,133,734,671
Grand Total	10,168,882,471	13,355,000,000	13,634,000,000	13,990,000,000	14,279,000,000	14,642,000,000	69,900,000,000

SECTION-BY-SECTION ANALYSIS

DIVISION A—SURFACE TRANSPORTATION / TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization and Programs

Sec. 11101. Authorization of appropriations.

Section 11101 provides the level of contract authority funding to be made available from the Highway Trust Fund for the Federal-aid highway programs. It also provides the level of authorizations for appropriation from the General Fund for certain programs during the same five-year authorization period of the bill, fiscal years 2022 through 2026.

Sec. 11102. Obligation ceiling.

Section 11102 sets the annual limitation on obligations for Federal-aid highway programs for each of fiscal years 2022 through 2026. This section identifies the programs that are exempt from the obligation limitation and provides the methodology for distributing the obligation authority between programs and among the States.

AASHTO Analysis:

- Similar to MAP-21 and FAST Act, provides maximum amount of obligation limitation allowable relative to contract authority provided each year.
- The August Redistribution process outlined remains the same.

Sec. 11103. Definitions.

Section 11103 modifies the definition of the term “construction” to include activities associated with assessing resilience and building wildlife crossing structures, modifies the definition of the term “transportation systems management and operations” to include consideration of incorporating natural infrastructure, and adds definitions for the terms “resilience” and “natural infrastructure” to the list of defined terms under Section 101 of title 23 United States Code.

Sec. 11104. Apportionment.

Section 11104 provides the amounts for administrative expenses of Federal Highway Administration (FHWA) for each fiscal year and distributes contract authority funding among the States.

AASHTO Analysis:

- Retains each state’s current share of the formula program.
- States are guaranteed a 95 percent return on their contributions to the Highway Account of the HTF as of July 1, 2019, and are not readjusted for subsequent years.
- States are guaranteed a 2 percent increase in their apportionment over FY 2021 levels, with a 1 percent increase in each of the subsequent years.
- 50 percent funding transferability among core formula programs allowable under 23 USC 126 is provided for new formula programs—Carbon Reduction and PROTECT formula.

Sec. 11105. National highway performance program.

Section 11105 augments the purpose of the National Highway Performance Program (NHPP) to include a focus on measures that increase resiliency to the impacts of sea level rise, extreme weather events,

flooding, and other natural disasters, such as earthquakes and rockslides. This section expands eligibility for States to use NHPP funds for resiliency, cybersecurity, and undergrounding utility infrastructure. It also allows a State to use up to 15 percent of its NHPP funding for protective features on a Federal-aid highway or bridge that is off the National Highway System if the protective feature is designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

Sec. 11106. Emergency relief.

Section 11106 clarifies the Emergency Relief (ER) program may include repairing damage from natural disasters over a wide area caused by wildfire and sea level rise. It allows the use of ER program funding for protective features designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

This section removes the restriction on funding for certain projects that were already included on a statewide transportation improvement plan at the time of a disaster. It expands the definition of a comparable facility to include a facility that incorporates economically justifiable improvements designed to mitigate the risk of recurring damage from extreme weather events, flooding, or other natural disasters.

Sec. 11107. Federal share payable.

Section 11107 provides for a Federal share payable of up to 100 percent for vehicle-to-infrastructure communication equipment and contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction activities.

This section extends the deadline for projects to be 100 percent federal-share from 180 to 270 days, as well as allowing for both permanent and temporary repairs to be 100 percent federal-share under the Emergency Relief program. This section allows the Secretary to waive the federal-share for the Surface Transportation Block Grant Program with considerations regarding whether a project or activity best serves the interests of the Federal-aid highway program and addresses national or regional high priority research, development, and technology transfer problems in a manner that would benefit multiple States or metropolitan planning organizations.

This section also creates a Federal Share Flexibility Pilot Program that gives up to ten States additional flexibility to determine the Federal share on a project, multiple-project, or program basis for projects under any of the following funded under the National Highway Performance Program, the Surface Transportation Block Grant Program, the Highway Safety Improvement Program, the Congestion Mitigation and Air Quality Improvement Program and the National Highway Freight Program.

AASHTO Analysis:

- At AASHTO's recommendation, the Federal Share Flexibility Pilot Program provides increased flexibility in allowing participating States to fund individual projects at 100 percent federal share if federal share for the funding program as a whole meets the traditional federal share—typically at 80 percent.
- Multistate pooled-fund research programs receive 100 percent federal share as recommended by AASHTO.

Sec. 11108. Railway-highway grade crossings.

Section 11108 continues to set aside \$245,000,000 of the funding authorized for the Highway Safety Improvement Program (HSIP) for the Railway-Highway Crossings (Section 130) Program for each of fiscal years 2022 through 2026. This section removes the requirement that at least half of the funds set aside for the Section 130 program must be for the installation of protective devices at railway-highway crossings. This section increases the Federal share for projects funded under the Section 130 program from 90 to 100 percent, as well as clarifies that the replacement of functionally obsolete warning devices is an eligible expense. This section also increases the amount of state incentive payment at-grade crossing closures from \$7,500 to \$100,000 and also increases the amount that can be used for the compilation and analysis of data.

This section emphasizes eligibility for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings, and states that it is the sense of Congress that the DOT should, where feasible, coordinate efforts to prevent or reduce trespasser deaths along railroad rights-of-way and at or near railway-highway crossings. This section requires the Comptroller General of the United States to submit a report that includes an analysis of the effectiveness of the Section 130 program as a set-aside within HSIP.

AASHTO Analysis:

- All three of AASHTO's policy recommendations are included in this provision, allowing additional flexibility for State DOTs to address their individual needs.

Sec. 11109. Surface transportation block grant program.

Section 11109 increases the amount of funding set aside within the Surface Transportation Block Grant (STBG) Program for the Transportation Alternatives Program (TAP), increases the minimum percentage of TAP funding that is sub-allocated on the basis of population to 59 percent, and provides a process by which States may opt to increase that percentage to as high as 100 percent. This section allows a State to elect to use up to 5 percent of TAP funds on technical and application assistance and administration, and adds eligibilities for smaller communities to apply for TAP funding.

This section also adds new eligibilities to STBG including construction of wildlife crossing structures, electric vehicle charging infrastructure and vehicle-to-grid infrastructure, installation and deployment of intelligent transportation technologies, projects that facilitate intermodal connections between emerging transportation technologies, resilience features, cybersecurity protections, and rural barge landings, docks, and waterfront infrastructure projects, and the construction of certain privately-owned ferry boats and terminals.

This section also increases off-system bridge set-aside and allows low water crossing replacement projects to be eligible for use under this set-aside, and creates a new set-aside for projects in rural areas.

This section provides for more granular suballocation of funding, with a new population category for 50,000 to 200,000, and provides for state consultation with metropolitan planning organizations.

Sec. 11110. Nationally significant freight and highway projects.

Section 11110 amends the Nationally Significant Freight and Highway Projects (NSFHP) program (also known as the INFRA grant program) by raising the cap on eligible multimodal projects to 30 percent of the amounts made available for grants in each of fiscal years 2022 through 2026. This section provides a

limited amount of funds (no more than two percent of program funds total) for the purposes of grant application review, grant administration, and oversight by the National Surface Transportation and Innovative Finance Bureau (also known as the Build America Bureau), and by the relevant operating administrations.

This section sets aside \$150,000,000 per year of NSFHP funds for a pilot program that prioritizes applications offering the greatest non-Federal share of project costs. In addition, 10 percent of the funds for the NSFHP are set aside annually for multistate corridor organizations.

This section also increases the minimum amount (from 10 percent to 15 percent) that the Secretary shall reserve for small projects, as defined by NSFHP, and requires that not less than 30 percent of funds reserved for small projects be used for certain projects in rural areas. This section also increases the Federal share allowable for small projects from 60 to 80 percent and allows increased maximum Federal involvement for a State with a population density of not more than 80 persons per square mile.

This section also adds the enhancement of freight resilience to natural hazards or disasters such as high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, or steep grades as an additional consideration by the Secretary when making NSFHP grants. The section adds wildlife crossings, surface transportation improvements functionally connected to an international border crossing, and marine highway projects functionally connected to the National Highway Freight Network as eligible projects.

This section allows NSFHP grants and other competitively awarded grants greater than \$5,000,000 to be expended after grant selection but prior to the grant agreement being signed, and for such funds to be credited toward the non-Federal cost share of the project. This section expands the transparency requirements in project selection and requires the Secretary to provide each eligible applicant not selected for an NSFHP grant a written notification that the eligible applicant was not selected, which shall include an offer for a debrief as to why the project was not selected. For each project selected for a grant, this section requires the Secretary to submit a report to Congress explaining the reasons the project was selected. Further, this section requires the Comptroller General and the Department of Transportation Inspector General to conduct separate assessments of the NSFHP project selection process.

AASHTO Analysis:

- Increase of the multimodal cap from 10 to 30 percent reflects AASHTO's policy recommendation.

Sec. 11111. Highway safety improvement program.

Section 11111 restores flexibility to fund certain non-infrastructure activities and behavioral safety projects, such as educational campaigns about traffic safety and enforcement activities, and allows a State to spend up to 10 percent of its Highway Safety Improvement Program (HSIP) funding on such projects.

This section includes leading pedestrian intervals, construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds, installation or upgrades of traffic control devices for pedestrians and bicyclists, roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, and a pedestrian security feature designed to slow or stop a motor vehicle as an eligible highway safety improvement project.

This section defines a “safe system approach” and “vulnerable road user” and requires that when 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 their HSIP funds for the following fiscal year for projects to address the safety of vulnerable road users. This section also directs the Secretary to update the study on high-risk rural roads.

This section newly creates a Vulnerable Road User Assessment, to be integrated into the existing requirement for a State Strategic Highway Safety Plan, which requires states to gather and assess data on fatalities and serious injuries of vulnerable road users, and identify a program of projects to mitigate such safety risks.

AASHTO Analysis:

- Restoring HSIP flexibility for educational and behavioral safety activities reflects AASHTO’s policy recommendation.
- States should provide input on the definition of safe systems and vulnerable road user assessments to ensure that, as written, they are implementable.

Sec. 11112. Federal lands transportation program.

Section 11112 raises the cap on Federal Lands Transportation Program (FLTP) funds that may be used to improve public safety and reduce wildlife vehicle collisions while maintaining habitat connectivity from \$10,000,000 to \$20,000,000 per year. This section also requires entities carrying out FLTP projects to consider the use of native plants and designs that minimize runoff and heat generation.

Sec. 11113. Federal lands access program.

Section 11113 broadens activities eligible under the Federal Lands Access Program (FLAP) to include contextual wayfinding markers, landscaping, and cooperative mitigation of visual blight. This section also requires entities carrying out FLAP projects to consider the use of native plants and designs that minimize runoff and heat generation. This section also allows the use of context-sensitive solutions, which help to ensure that designs for a built structure’s size, scale, spacing, lighting, materials, and other design elements are respectful of the setting’s natural, scenic, historical, archaeological, and cultural values and visually connect or integrate the character of the Federal lands with adjacent areas and communities.

This section also makes FLAP projects eligible for 100 percent federal share, and lifts the cap for bridge inspections and transportation planning activities from 5 to 20 percent.

Sec. 11114. National highway freight program.

Section 11114 increases the maximum number of highway miles a State may designate as critical rural freight corridors from 150 to 300 miles, and as critical urban freight corridors from 75 to 150 miles. This section also provides additional flexibility for lower population-density States to designate as critical rural freight corridors a maximum of 600 miles of highway, or 25 percent of the primary highway freight system mileage in the State, whichever is greater. The section increases the percent of program funds that may be used for eligible multimodal projects from a 10 percent cap to a 30 percent cap, and adds lock, dam, and marine highway projects as eligible if the projects are functionally connected to the National Highway Freight Network and are likely to reduce on-road mobile source emissions.

AASHTO Analysis:

- Increasing the multimodal cap from 10 to 30 percent and allowing additional flexibility to designate eligible corridors reflect AASHTO’s policy recommendation.

Sec. 11115. Congestion mitigation and air quality improvement program.

Section 11115 adds flexibility to the Congestion Mitigation and Air Quality Improvement Program (CMAQ) by allowing States to spend up to 10 percent of CMAQ funds on certain lock and dam modernization or rehabilitation projects and certain marine highway corridor, connector, or crossings projects if such projects are functionally connected to the Federal-aid highway system and are likely to contribute to the attainment or maintenance of a national ambient air quality standard. This section also clarifies when eligible transit operating costs are not subject to a time limitation or phase-out requirement.

This section also adds eligibility for shared micromobility, including bike share and shared scooter systems, as well as for the purchase of medium- or heavy-duty zero emission vehicles and related charging equipment. This section also permits for the Secretary, at the request of an MPO, to assist that MPO with tracking progress made in minority or low-income populations as part of a performance plan.

Sec. 11116. Alaska Highway.

Section 11116 clarifies that the Secretary may provide allocated and apportioned funding for certain sections of the Alaska Highway, including sections in Canada, if the highway meets all applicable eligibility requirements. This section does not create new programs or funding sources. This section does not alter current or require new agreements between the United States and Canada.

Sec. 11117. Toll roads, bridges, tunnels, and ferries.

Section 11117 clarifies that the construction of ferry boats and terminals also includes the construction of maintenance facilities, and permits the use of Federal funds to procure transit vehicles as part of the ferry boat program if the vehicles are used exclusively as part of an intermodal ferry trip. This section also clarifies that for 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.

Sec. 11118. Bridge investment program.

Section 1118 establishes a new competitive grant program to assist State, local, Federal and tribal entities in rehabilitating or replacing bridges, including culverts, and eligibility for large projects and bundling of smaller bridges.

Under this program, the minimum grant amount for a large project is not less than \$50,000,000; the minimum grant amount for any other eligible project is \$2,500,000. In all cases, grant amounts, in combination with other anticipated funds, should be of a size sufficient to enable the project to proceed through completion. This program prioritizes certain projects within States that have applied for but have yet to receive grants, and requires the Secretary, during the period of fiscal years 2022 through 2026, to award each State with not fewer than either 1 large project, or 2 other than large projects.

The bridge program would include an application and evaluation process for large projects, after which the Secretary would submit an annual report to Congress on funding recommendations for large projects, based on project evaluations. Large projects could be funded with multi-year funding

agreements. To be able to receive a grant for a project under the program, the Secretary is to determine that an eligible bridge project is justified under factors listed in the section.

Under this program, at least 50 percent of program funds, in the aggregate from fiscal years 2022 through 2026, must be used for large projects, and a total of \$100 million over five years would be set-aside for tribal bridge projects.

AASHTO Analysis:

- No definition of bridges “at risk of falling into poor condition within the next 3 years”; predictions of that sort are not done under the National Bridge Inspection Program.
- Use of “current geometric design standards” (formerly known as “functionally obsolete”) is increasingly being dropped as a consideration in decision-making.
- “Load and traffic requirements typical of the regional transportation network” do not exist; load and traffic requirements are determined for each individual bridge.
- The requirements of multiple reports to Congress prior to project selection opens the program up to the possibility of political influence.
- The program requires that at least 50 percent of the funds be used for large projects but does not cap the amount that can be used for large projects.
- Proposed funding is half Highway Trust Fund, half discretionary spending.

Sec. 11119. Safe routes to school.

Section 11119 codifies the Safe Routes to School Program and amends it to apply the program through 12th grade to enable and encourage high school students to walk and bike to school safely.

AASHTO Analysis:

- States’ activities in this program should be required to be coordinated with strategic highway safety plans.

Sec. 11120. Highway use tax evasion projects.

Section 11120 reauthorizes funding to be used by the Secretary in conjunction with the Internal Revenue Service to address highway use tax evasion for fiscal years 2022 through 2026.

Sec. 11121. Construction of ferry boats and ferry terminal facilities.

Section 11121 increases funding for the ferry boat program, which funds the construction of ferry boats and ferry terminal facilities.

Sec. 11122. Vulnerable road user research.

Section 11122 directs the FHWA Administrator to 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. This includes research relating to roadway safety improvements, the impacts of traffic speeds, and tools to evaluate the impact of transportation improvements on projected rates and safety of bicycling and walking.

AASHTO Analysis:

- It may be preferable to include operations, not just design (i.e., “prioritize research on roadway design and operations,...”)

- It might take longer than 180 days to develop a research plan. There are other sources of research (NCHRP, individual States, others) and to ensure that a research program is effective and doesn't duplicate efforts or leave gaps, the USDOT will need to reach out to these other sources to understand recent, ongoing, and planned research. Also, there are numerous stakeholders to ask for input on research needs.

Sec. 11123. Wildlife crossing safety.

Section 11123 establishes a wildlife crossing pilot program to provide grants for projects designed to reduce wildlife-vehicle collisions and improve habitat connectivity. This section also requires the Secretary update and expand the "Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress," develop reports, guidance, and data collection methodology.

AASHTO Analysis:

- Evaluation of the effectiveness and identification of best practices that use the grants is included as consideration for awarding grants, but these should be included in the annual report to Congress.
- The report is required to include the effectiveness of the program, but information on the individual countermeasures will be useful to States.

Sec. 11124. Consolidation of programs.

Section 11124 provides funding for Operation Lifesaver, work zone safety grants, and safety clearinghouses for fiscal years 2022 through 2026.

AASHTO Analysis:

- This section provides funding for Operation Lifesaver, work zone safety grants and safety clearinghouses. These programs are authorized at \$3.5 million per year from fiscal years 2022 through 2026.

Sec. 11125. GAO report.

Section 11125 repeals the FAST Act requirement for the Government Accountability Office to report to and update Congress on administrative expenses of the Federal Highway Administration funded from the Highway Trust Fund during the 3 most recent fiscal years.

Sec. 11126. Territorial and Puerto Rico highway program.

Section 11126 authorizes increased funding for the Territorial and Puerto Rico Highway Program, a total of \$900,995,000 for Puerto Rico, and \$239,505,000 for the territories on the National Highway System for fiscal years 2022 through 2026. This section also adds eligibility for preventative maintenance for a portion of the allocation to Puerto Rico.

Sec. 11127. Nationally significant Federal lands and Tribal projects program.

Section 11127 amends Nationally Significant Federal Lands and Tribal Projects Program (NSFLTP) by allowing smaller projects to qualify for the program. This section also allows 100 percent Federal share for Tribal projects. This section further requires an even split in total use of funds between Federal lands projects and tribal transportation projects, and requires that for each of fiscal years 2022 through 2026, at least one Federal lands project be in a unit of the National Park System with not less than 3,000,000 annual visitors.

Sec. 11128. Tribal high priority projects program.

Section 11128 reinstates and provides funding for the Tribal High Priority Projects program at \$30,000,000 for each of fiscal years 2022 through 2026 from the General Fund, and sets aside for the program \$9,000,000 per year for each of fiscal years 2022 through 2026 from the Tribal Transportation Program.

Sec. 11129. Standards.

Section 11129 directs the Department of Transportation to update the Manual on Uniform Traffic Control Devices, and to continue to update the manual no less than every three years thereafter. This section also outlines that the initial update shall include protection of vulnerable road users, the safe testing of automated vehicle technology, and minimum retroreflectivity of traffic control devices and pavement markings. This section also includes electric vehicle charging stations.

AASHTO Analysis:

- Given the vast amount of input received and the rulemaking process required to update the MUTCD, a requirement to update this document every three years is likely impossible and unnecessary due to the pace of research and development. Avenues already exist for new devices and treatments to be utilized between editions of the manual, including the “experimentation” process, which aims to test new treatments, and “Interim Approvals,” which provide for broad usage on streets and highways until a new edition is published. Given the extent of the typical rulemaking process, this change would most likely divert federal staff time to administrative functions instead of participating in research and reviews of new treatments.
- This section also allows local jurisdictions to use roadway design guides that are different from the State DOT design guide, but only on projects sponsored by the local jurisdiction and on roadways owned by the local jurisdiction that are not part of the NHS (including compliance with other Federal laws), which is reasonable flexibility to provide to local jurisdictions.
- Regarding EV charging infrastructure, this section requires that only infrastructure with “non-proprietary charging connectors” be funded using federal funds, and that payment methods for this infrastructure shall be “equal access” (i.e., likely including cash). A concern in this section is that the installation of EV charging infrastructure “shall be treated as if the project is located on a Federal-aid highway,” which adds a significant volume of rules and regulations to these utility projects that would potentially slow down implementation.

Sec. 11130. Public transportation.

Section 11130 adds eligibility for a capital project for the construction of a bus rapid transit corridor or dedicated bus lanes, including the construction or installation of traffic signaling and prioritization systems, redesigned intersections that are necessary for the establishment of a bus rapid transit corridor, on-street stations, fare collection systems, information and wayfinding systems, and depots.

AASHTO Analysis:

- Section 11130 is about the flex use of highway funds for transit projects. In this case, these provisions would allow for federal-aid highway funds to be flexed for BRT/dedicated bus lane capital construction projects, including signals and prioritization systems, redesigning intersections, on-street stations, fare collection, etc.
- This provision is in line with AASHTO’s policy recommendation.

Sec. 11131. Reservation of certain funds.

Section 11131 extends existing federal funding penalties where a portion of highway apportionments are withheld from states that do not meet open container and repeat intoxicated driver requirements.

Sec. 11132. Rural surface transportation grant program.

Section 11133 directs the Secretary to establish a rural surface transportation grant program to provide grants, on a competitive basis, to eligible entities to improve and expand the surface transportation infrastructure in rural areas. The goals of the program include increasing connectivity, improving safety and reliability of the movement of people and freight, and the generation of regional economic growth and improving quality of life. A grant under the program shall be at least \$25,000,000, and the federal share shall be at least 80 percent, and up to 100 percent for projects on the Appalachian Development Highway System. No more than 10 percent of funds may be used for projects smaller than \$25,000,000, and at least 25 percent of funds shall be reserved for projects that further the completion of designated routes of the Appalachian Development Highway System. In addition, 15 percent of the funds are made available to States with a higher than national average rate of rural roadway fatalities as a result of lane departures.

Sec. 11133. Bicycle transportation and pedestrian walkways.

Section 11134 provides a definition for the class 1, 2, and 3 electric bicycles and the addition of micromobility as an eligible use of funds for construction of walkways and bicycle transportation facilities.

AASHTO Analysis:

- For “State Bicycle and Pedestrian Coordinators,” allows funding to be used for an additional coordinator, meaning each State is now required to fund “up to 2 positions” of bicycle and pedestrian coordinator (previously just “a position”).
- The position has not been changed to “active transportation coordinator,” which would be preferable.

Sec. 11134. Recreational Trails Program.

Section 11135 allows for funds apportioned to a State under their apportionment to be used on a recreational trail or a related project to be administered as if the funds were made available to carry out the Recreational Trails Program.

Sec. 11135. Updates to the Manual on Uniform Traffic Control Devices.

Section 11136 directs the Department to update the MUTCD, and to include updates necessary to provide for the protection of vulnerable road users, supporting the safe testing of automated vehicle technology and any preparation necessary for the safe integration of automated vehicles onto public streets, appropriate use of variable message signs to enhance public safety, and the minimum retro reflectivity of traffic control devices and pavement markings.

AASHTO Analysis:

- This section may result in legislating engineering decision-making and thus raises concerns.
- The intent of the MUTCD does not deal with testing or integration of CAVs onto public streets, and the MUTCD is not the correct vehicle for this information. While states may agree with the provision to limit VMS messaging (depending on how it is carried out), mandating requirements for retroreflectivity and requiring FHWA to include recommendations of a single organization (NCUTCD) “to the greatest extent practicable” are overreaching. AASHTO recommends seeking

input from an inclusive set of stakeholders.

- These engineering decisions are not appropriate to be decided through legislation. Vulnerable users (Sec 1136(1)) are addressed in Sec 1112, and the rest of this section appears to overrule technical expertise with legislation.

Subtitle B—Planning and Performance Management

Sec. 11201. Transportation planning.

Section 11201 clarifies considerations required of Metropolitan Planning Organizations (MPO) when designating officials or representatives. This section also enhances coordination among MPOs and encourages States and MPOs to use social media and other web-based tools to encourage public participation in the transportation planning process.

Sec. 11202. Fiscal constraint on long-range transportation plans.

Section 11202 clarifies that for purposes of developing a financial plan under a metropolitan transportation plan, any years beyond the 4-year transportation improvement plan horizon shall be considered outer years for purposes of financial plan requirements.

Sec. 11203. State human capital plans.

Section 11203 requires the Secretary to encourage States to develop a voluntary human capital plan for the immediate and long-term transportation-related personnel and workforce needs of the State. These voluntary human capital plans are to be publicly available and updated at least once every 5 years.

Sec. 11204. Prioritization Process Pilot Program.

Section 11204 establishes a prioritization process pilot program to support data-driven approaches to transportation planning. This section authorizes the Secretary to award grants to selected States and MPOs to fund the development and implementation of publicly accessible, transparent prioritization processes to assess and score projects according to locally determined priorities, and to use such evaluations to inform the selection of projects to include in transportation plans. The purpose of the pilot program is to support data-driven approaches to planning that, on completion, can be evaluated for public benefit.

Pilot program grants may not exceed \$2,000,000. States and MPOs that receive grants shall use funds to develop and implement a publicly accessible, transparent prioritization process for the selection of projects for inclusion on the applicable long-term transportation plan. If a grant recipient has fully implemented a prioritization process, they may use any additional remaining grant funds for any transportation planning purpose. If the inclusion or exclusion of a project on a transportation improvement program (TIP) or statewide transportation improvement program (STIP) deviates from the long-term transportation plan, the eligible entity is required to provide a public explanation for the decision.

Sec. 11205. Travel Demand Data and Modeling.

Section 11205 requires the Secretary to carry out a study of forecasted travel demand data compared to actual observed travel, and to use the findings of that study to inform State and MPO use of travel forecasting to evaluate the impacts of transportation investments on travel demand, to support more accurate travel demand forecasting, and to enhance the capacity of States and MPOs to forecast travel and track observed travel behavior.

AASHTO Analysis:

- If the goal is to better understand the accuracy of TDM, Congress should consider establishing a center of excellence in transportation modeling with the goal on continuous improvement of the transportation modeling capabilities of States and MPOs. TDMs are one of many different modeling tools used in the decision-making process.
- The Evaluation Tool under subsection (3), a web-based tool to evaluate the effects of investments on transportation projects, may not provide value due to availability of the dataset and the ability to correctly calculate/estimate impacts.

Sec. 11206. Increasing safe and accessible transportation options.

Section 11206 requires each State and metropolitan planning organization to spend a minimum amount of funding for either the adoption of complete streets standards and policies, development of a complete streets prioritization plan, active and mass transportation planning, regional and megaregional planning to address travel demand through alternatives to highway travel, or transit-oriented development planning. This section provides an exemption for a State or MPO if it has Complete Streets standards and policies in place, and has developed an up-to-date prioritization plan.

AASHTO Analysis:

- In general, references to “flexible design practices” that improve safety for all system users is more inclusive compared to “complete streets.”
- The option for State flexibility to opt out of the requirements should include having flexible standards and policies in place or a flexible design prioritization plan in place, rather than specific policies and plans named “complete streets.”
- Rather than requiring States to spend 2.5 percent of State Planning and Research dollars, explicitly adding these eligibilities to the existing program is preferred.

Subtitle C—Project Delivery and Process Improvement

Sec. 11301. Codification of One Federal Decision.

Section 11301 amends section 139 of title 23, United States Code, to provide new environmental review procedures and requirements for major projects. Under section 1301, the Department of Transportation is required to develop a schedule consistent with an agency average of two years to complete an environmental impact statement and requires accountability to the public when milestones are missed. Environmental documents under this section are limited to 200 pages unless a review is of unusual scope and complexity. The Secretary of Transportation is also directed to work with relevant Federal agencies to adopt appropriate categorical exclusions to facilitate project delivery.

AASHTO Analysis:

- AASHTO supports the spirit of OFD but page limits should be a goal, with flexibilities allowed in case page limits cannot be met. Establishing goals along with requiring the lead agency to concur with State DOT project sponsors in determining appropriate environmental document page limits and the application of exceptions will provide the State DOTs, as preparers of the environmental review documents, the flexibility to ensure the documents are legally sufficient.
- AASHTO supports the categorical exclusions adoption.

Sec. 11302. Work zone process reviews.

Section 11302 requires the Secretary to review work zone processes not more frequently than once every 5 years.

AASHTO Analysis:

- This section relaxes the requirement for work zone safety and mobility process reviews from “at least every 2 years” to “not more frequently than once every 5 years.” This frequency will provide States with additional time to implement techniques and analyze effectiveness, while not preventing additional efforts or adjustments in the interim.

Sec. 11303. Transportation management plans.

Section 11303 requires the Secretary to clarify that only projects with a lane closure for 3 or more consecutive days are to be deemed significant and removes the requirement for a State to develop or implement a transportation management plan for any project that is not on the Interstate and that requires not more than three consecutive days of lane closures.

AASHTO Analysis:

- This section effectively removes the requirement for a transportation management plan on any project (Interstate or non-Interstate) with three or more days of continuous lane closures, thus reducing the number of plans that need to be developed.

Sec. 11304. Intelligent transportation systems.

Section 11304 requires the Secretary to develop guidance for using existing flexibilities with respect to the systems engineering analysis. Specifically, this section requires the Secretary to ensure that the guidance clarifies criteria for low-risk and exempt intelligent transportation system projects to minimize unnecessary delays or paperwork burdens.

AASHTO Analysis:

- These exemptions should help address state problems with 23 CFR 940: Intelligent Transportation System Architecture and Standards. Many States believe the existing regulation is out of date and can unnecessarily increase a project’s cost and time.

Sec. 11305. Alternative contracting methods.

Section 11305 amends sections 201 and 308 of title 23, United States Code, to provide the Secretary flexible authority to use contracting methods available to a State under title 23 on behalf of Federal land management agencies (and Tribes under section 202) in using funds under sections 203, 204, or 308 of title 23, or section 1535 of title 31. This section requires that the Secretary solicit input from stakeholders and consult with Federal land management agencies to establish clear procedures for alternative contracting methods that are consistent with Federal procurement requirements to the maximum extent practicable.

Sec. 11306. Flexibility for projects.

Section 11306 requires the Secretary, on request by a State, and if in the public interest, to exercise all existing flexibilities under the requirements of title 23 and other requirements administered by the Secretary to expedite processes.

Sec. 11307. Improved Federal-State stewardship and oversight agreements.

Section 11307 requires the Secretary to request public comment on a template for Federal-State stewardship and oversight agreements and requires the Secretary to update existing agreements with States according to the template.

AASHTO Analysis:

- In general, the review of the stewardship agreement template could potentially remove federal approvals that States deem unnecessary, but there is some concern with the development of an overarching template. The review frequency would be lessened, which reduces the paperwork burden on the States.
- There is some concern with the development of a template for stewardship and oversight agreements, as it could reduce flexibility for States that have been working cooperatively with their Division Offices for years. As described, the template appears to be relatively flexible, but the authority to make changes to the template appears to rest only with the Secretary. If the template is broad enough, then the needed flexibility for States will still be available, but this is not guaranteed.
- On the positive side, the comment period on the template would provide an opportunity for States to comment on whether approvals by the Secretary of “policies, procedures, processes, or manuals of the States, or other State actions” that are not required by law or regulation should be retained. If any approval authority is retained, the Secretary would need to explain why it is required when a final notice is published in the Federal Register. It would also allow for comments on potentially adjusting the review schedules for State practices or actions.
- In addition, the Secretary could not force a State to comply with approval requirements that are not required by Federal law (including regulations) in a stewardship and oversight agreement.
- The frequency of review of the stewardship and oversight agreements would also be extended from annually to at least once every two years, and possibly less frequently.

Sec. 11308. Geomatic data.

Section 11308 requires the Secretary to develop and issue for public comment guidance for the acceptance and use of information obtained from a non-Federal interest through geomatic techniques, including remote sensing and land surveying, cartography, geographic information systems, global navigation satellite systems, photogrammetry, or other remote means.

AASHTO Analysis:

- This section is intended to develop guidance on the use of various types of geomatic information, which could be useful to some States as they begin to use these types of data more frequently in transportation projects.
- This section is focused on only one “non-Federal entity” in the development of this guidance and AASHTO supports a broader review of information available from multiple vendors.

Sec. 11309. Evaluation of projects within an operational right-of-way.

Section 11309 establishes deadlines for the review, response, and action by Federal agencies carrying out their permit, approval, or other authorization responsibilities over preventative maintenance, preservation, or highway safety projects (including certain turn lane projects) in the operational right-of-way. This section requires Federal agencies to provide at least a preliminary evaluation of the application within 45 days and subjects Federal agencies that do not meet the requirements of this section to a reporting requirement to describe why the deadline was missed.

Sec. 11310. Preliminary engineering.

Section 11310 eliminates the requirement in section 102(b) of title 23, United States Code, that a State repay Federal-aid reimbursements for preliminary engineering costs on a project that has not advanced to right-of-way acquisition or construction within 10 years.

AASHTO Analysis:

- This provision reflects AASHTO’s policy recommendation.

Sec. 11311. Efficient implementation of NEPA for Federal lands management projects.

Section 11311 allows for a Federal land management agency to more efficiently satisfy NEPA obligations by relying upon an environmental document previously prepared by the Federal Highway Administration. This section also allows for a Federal Land Management Agency to use the categorical exclusions promulgated in the implementing regulations of the Federal Highway Administration if the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project sponsor.

Sec. 11312. National Environmental Policy Act of 1969 reporting program.

Section 11312 directs the Secretary to carry out a process to track, and annually 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 containing time to complete the NEPA process for an environmental impact statement and an environmental assessment.

AASHTO Analysis:

- DOT NEPA guidance issued in Nov. 2020 would have required State DOTs to track and report costs associated with preparing an EIS. AASHTO strongly opposed this requirement as it would impose a substantial administrative burden on State DOTs. AASHTO also questioned whether or not that requirement was in conflict with the Paperwork Reduction Act of 1995.
- Every project is unique and State DOTs believe this exercise would not be meaningful—isolating the cost of NEPA review from all other associated costs (design, real estate, consultation, early permitting) would not provide a good measure of time or cost.

Sec. 11313. Surface transportation project delivery program written agreements.

Section 11313 extends the time period for a State to have an agreement to assume the responsibilities under the National Environmental Policy Act of 1969, from a term of not more than 5 years, to allow for any State that has participated in a program under this section for at least 10 years, to have a term of 10 years.

AASHTO Analysis:

- It would be preferable if the state only had to participate for at least five years rather than ten.
- Less prescriptive legislative language would be preferable: “performance of the 10-year MOU will be monitored by FHWA.”

Sec. 11314. State assumption of responsibility for categorical exclusions.

Section 11314 extends the period of time for a State to assume the responsibility for determining whether certain designated activities are categorical exclusions, from a term of not more than 3 years, to

a term of 5 years, in the case of a State that has assumed the responsibility for categorical exclusions under this section for not fewer than 10 years.

Sec. 11315. Early utility relocation prior to transportation project environmental review.

Section 11315 amends section 123 of title 23, United States Code, to allow reimbursement with funds made available for title 23 projects for an “early utility relocation project” (defined as those relocation activities identified by the State for performance prior to completion of environmental review for the transportation project). For such reimbursement to occur, the early utility relocation project must subsequently be incorporated into a larger, authorized transportation project. In addition to the requirements for reimbursement, this section also outlines requirements for utility relocation prior to completion of environmental review, including that the early utility relocation project did not influence the environmental review process.

Sec. 11316. Streamlining of section 4(f) reviews.

Section 11316 establishes a deadline for interagency consultation for Section 4(f) reviews and specifies that if comments are not received within 15 days of the deadline, the Secretary shall assume a lack of objection and proceed with the action.

Sec. 11317. Categorical exclusions for projects of limited Federal assistance.

Section 11317 amends the existing categorical exclusion for projects of limited federal funding.

Sec. 11318. Certain gathering lines located on Federal land and Indian land.

Section 11318 provides the Secretary of the Interior discretion to establish a categorical exclusion for certain gathering lines that would reduce vented, flared, or avoidably lost natural gas from vehicular traffic servicing onshore oil and gas wells on Federal land and, with tribal consent, Indian land, as described in a sundry notice or right-of-way submitted to the Bureau of Land Management or, where applicable, the Bureau of Indian Affairs.

Sec. 11319. Annual Report.

This section creates a new requirement for USDOT to issue an annual report listing DOT-funded projects that are \$1 billion or more over budget or more than five years or more behind schedule. Additional information is required to be reported on each project listed.

Subtitle D—Climate Change

Sec. 11401. Grants for charging and fueling infrastructure.

Section 11401 directs the Secretary to establish a grant program for Alternative Fuel Corridors, as well as a set-aside grant program for Community grants. These programs are designed to strategically deploy publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure along designated alternative fuel corridors or in certain other locations that will be accessible to all drivers of electric vehicles, hydrogen vehicles, propane vehicles, and natural gas vehicles. Eligible entities include a State or political subdivision of a State, a metropolitan planning organization, a unit of local government, a special purpose district or public authority with a transportation function, including a port authority, an Indian tribe, and a territory of the United States. Section 1401 would also amend section 151 of title 23 to make the process of designating alternative fuel corridors periodic and recurring, and also modifies a reporting deadline.

Eligible entities under the program are all public entities and are comprised of a State or political subdivision of a State; an MPO; a unit of local government; a special purpose district or public authority with a transportation function; an Indian tribe; an authority entity, agency, or instrumentality of, or an entity owned by, 1 or more of the preceding eligible entities; and a group of the preceding eligible entities.

Applications must include a description of how the eligible entity has considered public accessibility relative to the proposed project, collaborative engagement with stakeholders, the location of the proposed project, responsiveness to technology advancements, and the long-term operation and maintenance of the proposed project.

In selecting eligible entities to receive grants, the Secretary must consider whether an application would improve alternative fueling corridor networks, meet the current or anticipated market for charging or alternative fueling infrastructure, enable or accelerate the construction of charging or alternative fueling infrastructure that would be unlikely to be completed without Federal assistance, and support a long-term competitive market for alternative fueling and charging infrastructure. Additionally, the Secretary must consider geographic diversity among applicants, the finances and experience of private entity contractors, and the adequacy of agreements between eligible entities and their private entity contractors.

Grants for the alternative fuel corridors are to be used to contract with a private entity for acquisition and installation of publicly accessible alternative fuel vehicle charging and fueling infrastructure that is directly related to the charging or fueling of a vehicle. Such infrastructure is to be located along an alternative fuel corridor either designated under section 151, or by a State or group of States on the condition that any affected Indian tribes are consulted before the designation. Eligible entities may use a portion of grant funds to provide a private entity operating assistance for the first 5 years of operations after infrastructure installation.

Eligibility includes propane fueling infrastructure, but limits it to infrastructure for medium- and heavy-duty vehicles.

50 percent of the total program funds will be made available each fiscal year for Community Grants, to install EV charging and alternative fuel in locations on public roads, schools, parks, and in publicly accessible parking facilities. These grants will be prioritized for rural areas, low- and moderate income neighborhoods, and communities with low ratios of private parking, or high ratios of multiunit dwellings.

The Federal cost-share for a project may not exceed 80 percent. Further, as a condition of contracting with an eligible entity, a private entity must agree to pay the non-Federal share of project costs.

AASHTO Analysis:

- This program creates the federal program foundation for low or zero-emission fueling of vehicles including Electric Vehicles and other non-ICE vehicles.

Sec. 11402. Reduction of truck emissions at port facilities.

Section 11402 establishes a program to reduce idling and emissions at port facilities. This section requires the Secretary to study how ports would benefit from electrification and to study emerging technologies that reduce emissions from idling trucks. This section requires the Secretary to coordinate

and fund projects through competitive grants that reduce port-related emissions from idling trucks. This section requires that any project funded under a grant under this section shall be treated as a project on a Federal-aid highway. This section requires the Secretary to submit a report to Congress detailing the status and effectiveness of the program.

Sec. 11403. Carbon reduction program.

Section 11403 establishes a carbon reduction program to reduce transportation emissions. Eligible projects include a project to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, a public transportation project that is eligible for assistance under section 142 (Public Transportation), the construction, planning, and design of on-road and off-road trail facilities for pedestrians and bicyclists, a project for advanced transportation and congestion management technologies, a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle to infrastructure communications equipment, a project to replace street lighting and traffic control devices with energy-efficient alternatives, the development of a carbon reduction strategy, and retrofitting of DSRC technology under certain conditions.

This section also establishes that 2 years after the date of enactment a State, in consultation with any metropolitan planning organization designated within the State, shall develop a carbon reduction strategy that supports efforts to reduce greenhouse gas emissions, identifies projects and strategies to reduce transportation emissions, supports the achievement of targets for the reduction of transportation emissions, quantifies the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State, and is appropriate to the population density and context of the State. 65 percent of funding under this program would be suballocated by population.

Section 11403 also permits, at the request of a State, that the Secretary shall provide technical assistance in the development of the carbon reduction strategy

AASHTO Analysis:

- This is a new formula program that would be added to existing core formula programs funded via state apportionment.
- Suballocation at 65 percent is higher than 55 percent for STBGP.
- Formula program transferability subject to 23 USC 126 applies to this program.

Sec. 11404. Congestion relief program.

Subsection (a) of Section 11404 establishes a congestion relief program to provide competitive grants to States, local governments, and metropolitan planning organizations, for projects in large urbanized areas to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas of the United States.

The goals of the congestion relief program are to reduce highway congestion, economic and environmental costs related to congestion, and to optimize existing highway capacity and usage of transit systems that provide alternatives to highways. To achieve these goals, the program allows States and MPOs to compete for grants for eligible projects within urbanized areas containing populations of more than 1,000,000 people. Grant awards shall be not less than \$10,000,000. Eligible projects consist of planning, design, implementation, and construction activities to achieve program goals, including the

deployment and operation of mobility services, integrated congestion management systems, and systems that implement or enforce high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing. Incentive programs that encourage travelers to carpool or use non-highway travel modes are also included. When selecting grants, the Secretary shall give priority to eligible projects located in urbanized areas that are experiencing high degrees of recurrent congestion. The Federal cost-share shall not exceed 80 percent of the total cost of a project.

In addition, the congestion relief program permits the Secretary to allow the use of tolls on the Interstate System as part of a project carried out with a program grant, subject to certain requirements. The Secretary may not approve the use of tolls on the Interstate System under the program in more than 10 urbanized areas.

Subsection (b) of Section 11404 amends section 129(a) of title 23 to require toll facilities on the Interstate System constructed or converted after the date of enactment to allow high occupancy vehicles, transit, and paratransit vehicles to use the facility at a discounted rate or without charge unless the public authority determines that the number of such discounted vehicles would reduce the travel time reliability of the facility.

AASHTO Analysis:

- Funded at \$50 million per year, this discretionary grant program would be able to provide no more than five grants each year as the minimum grant amount is \$10 million.

Sec. 11405. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.

Section 11405 establishes a formula and competitive grant program to help States improve the resiliency of transportation infrastructure.

Resilience grants comprise resilience improvement grants, community resilience and evacuation route grants, and at-risk coastal infrastructure grants.

This section describes the required plan contents of a voluntary resilience improvement plan, and allows a State or eligible entity that receives a grant to have the non-Federal share of projects reduced if the State or eligible entity meets certain voluntary planning requirements. Specifically, the non-Federal share of projects carried out with PROTECT funds can be reduced by 7 percent if a State or eligible entity develops a resiliency improvement plan, and reduced by an additional 3 percent if a State or eligible entity incorporates a resiliency improvement plan within its long-range statewide transportation plan or metropolitan transportation plan.

AASHTO Analysis:

- This is a new formula program that would be added to existing core formula programs funded via state apportionment.
- This provision includes an incentive to adopt resiliency plans by allowing for increased federal share if certain planning requirements are met.
- Formula program transferability subject to 23 USC 126 applies to this program.

Sec. 11406. Healthy Streets program.

Section 11406 establishes a discretionary grant program, to be known as the “Healthy Streets program”,

to provide grants to eligible entities to deploy cool pavements and porous pavements and to expand tree cover. The goals of the program are to mitigate urban heat islands, improve air quality, and reduce the extent of impervious surfaces, storm water runoff and flood risks, and heat impacts to infrastructure and road users.

AASHTO Analysis:

- This discretionary grant program is funded at \$100 million per year out of the General Fund.

Subtitle E--Miscellaneous

Sec. 11501. Additional deposits into Highway Trust Fund.

Section 11501 repeals section 105 of title 23. Because IJA authorizes funding for Federal-aid highway and highway safety programs for fiscal years 2022 through 2026, there is no need for additional funding to be automatically authorized in the manner contemplated under section 105 of title 23.

AASHTO Analysis:

- It would be preferable to include language to automatically tie any revenue increases in the Highway Trust Fund towards formula distribution. Though it was not triggered, this feature was part of the FAST Act.

Sec. 11502. Stopping threats on pedestrians.

Section 11502 establishes a grant program to provide assistance to State DOTs 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. The program is authorized for appropriations at \$5,000,000 for each of fiscal years 2022 through 2026.

Sec. 11503. Transfer and sale of toll credits.

Section 11503 establishes a toll credit exchange on a pilot basis to enable the Secretary to evaluate the feasibility of and demand for a toll credit marketplace through which States could sell, transfer, or purchase toll credits. The Secretary may only select up to 10 States to participate in the pilot program, which allows originating States to transfer or sell toll credits pursuant to section 120(i) of title 23, United States Code. This section allows recipient States to use a credit toward the non-Federal share requirement for any funds made available under title 23 or chapter 53 of title 49, United States Code. Under this section, an originating State shall use the proceeds from the sale of a credit for the construction costs of any title 23 eligible project within that State. Originating and recipient States shall submit to the Secretary a written notification not later than 30 days after the date on which a credit is transferred or sold. Under this section, the Secretary must verify the amount of unused toll credits and provide a publicly accessible website where originating States shall post the verified amount of toll credits available for sale or transfer. The Secretary shall submit an initial and final report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than 1 and 3 years, respectively, after the date of establishment of the pilot program.

AASHTO Analysis:

- The proposal for a toll credit exchange pilot program is acceptable. However, layering such a program upon existing FHWA policies and mechanisms for tracking state toll credits requires a comprehensive

look at how the pilot intersects with existing capacity and practices to ensure the pilot program can meet its goals.

Sec. 11504. Study of impacts on roads from self-driving vehicles.

Section 11504 requires USDOT, within 60 days of enactment, to initiate a study on the existing and future impacts of self-driving vehicles to transportation infrastructure, mobility, the environment, and safety, including impacts on the Interstate System, urban and rural roads, corridors with heavy traffic congestion, and transportation systems optimization, among others.

Sec. 11505. Disaster relief mobilization study.

Section 11505 directs the Secretary to carry out a study to determine the utility of incorporating the use of bicycles into the disaster preparedness and disaster response plans of local communities. The study will look at a vulnerability assessment of the infrastructure in local communities that supports active transportation, including bicycling, walking, and personal mobility devices, with a particular focus on areas in communities that have low levels of vehicle ownership and lack sufficient active transportation infrastructure routes to public transportation. Not later than 2 years after enactment, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the results of the study carried out and provides recommendations, if any, relating to the methods by which to incorporate bicycles into disaster preparedness and disaster response plans of local communities and improvements to training programs.

AASHTO Analysis:

- This study is narrowly defined and may not adequately address the problems people face during an evacuation. For example a NIST Technical Note 2103 “Evacuation Decision-Making in the 2016 Chimney Tops 2 Fire: Results of a Household Survey” found that individuals considered their evacuation difficult and dangerous. “Participants described injuries sustained during the fire (3), impassible or obstructed routes blocked by debris, downed power lines, flames, etc. (21) or traffic jams (4), low visibility due to smoke (4), and being surrounded by flames as they evacuated (25).” The study, as described, also wouldn’t address the problem of evacuating pets, small children, or disabled individuals.
- A study with a broader scope would be more useful. It could perhaps look at challenges that people experience when evacuating and examine useful solutions to help them.

Sec. 11506. Appalachian Regional Commission.

Section 11506 reauthorizes the Appalachian Regional Commission (ARC) at \$200,000,000 for each of fiscal years 2022 through 2026, including \$5,000,000 per year to establish an Appalachian Regional Energy Hub and \$20,000,000 per year to deploy high-speed broadband in the Appalachian region. This section also adds Catawba and Cleveland counties (in North Carolina) as part of the Appalachian region for purposes of the ARC.

Sec. 11507. Denali Commission.

Section 11507 amends the Denali Commission Act of 1998 to reauthorize funding through Fiscal Year 2026 at a level of \$20.2 million annually and also directs that funds transferred to the Commission from another Federal agency not be subject to any requirements that applied to the funds before the transfer, including a requirement in an appropriations act or a requirement or regulation of the agency from which the funds are transferred.

Sec. 11508. Requirements for transportation projects carried out through public-private partnerships.

Section 11508 contains transparency requirements for projects carried out through public-private partnerships with an estimated cost of \$100,000,000 or more. Specifically, this section requires that as a condition to receive Federal financial assistance for a project, a public partner must disclose and certify certain information relating to the private partner's satisfaction of the terms of the public-private partnership agreement not later than 3 years after the date of the opening of the project to traffic. This section also requires the Secretary to provide Congress with notification when projects are carried out through public-private partnerships. This section also requires project sponsors receiving Federal loans or grants to include a detailed value for money analysis within the financial plan if the project sponsor intends to carry out the project through a public-private partnership. This section makes such analysis an eligible expense under the Surface Transportation Block Grant program.

AASHTO Analysis:

- These new requirements are acceptable with necessary oversight. AASHTO supports expanding funding eligibility in the Surface Transportation Block Grant program to help meet these requirements.

Sec. 11509. Reconnecting communities pilot program.

Section 11509 establishes a community connectivity pilot program through which eligible entities may apply for planning funds to study the feasibility and impacts of removing, retrofitting, or mitigating existing transportation facilities that create barriers to mobility, access, or economic development, and for construction funds to carry out a project to remove, retrofit or mitigate an eligible facility and, if appropriate, replace it with a new facility.

An eligible facility includes a limited access highway, viaduct, or any other principal arterial facility that creates a barrier to community connectivity, including barriers to mobility, access, or economic development, due to high speeds, grade separations, or other design factors.

This section allows the Secretary to award planning grants and provide technical assistance to eligible entities. Planning grant awards may not exceed \$2,000,000, and the Federal cost-share for a project may not exceed 80 percent.

This section also allows the Secretary to award capital construction grants to owners of eligible facilities for eligible projects for which all necessary feasibility studies (and other planning activities) have been completed. Eligible projects include the removal and replacement of eligible facilities. Capital construction grants must be at least \$5,000,000. The Federal cost-share for a project may not exceed 50 percent, and the maximum Federal involvement shall not exceed 80 percent. This subsection also allows grantees to form community advisory boards to help achieve inclusive economic development benefits with respect to the project for which a grant is awarded.

The Secretary may not use more than \$15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under this section.

AASHTO Analysis:

- AASHTO supports efforts to redress historic inequities in building the future of transportation infrastructure. This provision provides opportunity for infrastructure owners and operators such as State DOTs to address infrastructure barriers.

Sec. 11510. Cybersecurity tool; cyber coordinator.

Section 11510 requires the Federal Highway Administration to develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents. This section requires the FHWA to use the cybersecurity framework established by the National Institute of Standards and Technology to establish a structured cybersecurity assessment and development program, and to provide for a period of public review and comment on the tool. This section requires the FHWA to designate an office as a “cyber coordinator” for monitoring, alerting, and advising transportation authorities of cyber incidents. It is the intention of the Committee that the scope of this section be limited to actions undertaken by the FHWA and those State and local authorities within its oversight jurisdiction, and that those actions be coordinated with other cybersecurity-related efforts elsewhere in the Department.

Sec. 11511. Report on emerging alternative fuel vehicles and infrastructure.

Section 11511 directs the Secretary to make publicly available a report that includes an evaluation of emerging alternative fuel vehicles and projections for potential locations of emerging alternative fuel vehicle owners during the 5-year period beginning on the date of submission of the report, identifies areas where emerging alternative fueling infrastructure will be needed to meet the current and future needs of drivers during the 5-year period beginning on the date of submission of the report, identifies specific areas, such as a lack of pipeline infrastructure, that may impede deployment and adoption of emerging alternative fuel vehicles, includes a map that identifies concentrations of emerging alternative fuel vehicles to meet the needs of current and future emerging alternative fueling infrastructure, estimates the future need for emerging alternative fueling infrastructure to support the adoption and use of emerging alternative fuel vehicles, and includes a tool to allow States to compare and evaluate different adoption and use scenarios for emerging alternative fuel vehicles, with the ability to adjust factors to account for regionally specific characteristics.

Sec. 11512. Nonhighway recreational fuel study.

Section 11512 authorizes a study and recurring report to produce the best available estimate of the total amount of fuel taxes paid by users of non-highway recreational vehicles into the Highway Trust Fund. This section provides that the study will be used to assist Congress in determining an appropriate funding level for the recreational trails program.

Sec. 11513. Buy America.

Section 11513 requires the Secretary to issue a public notice 15 days in advance of issuing a waiver for the Buy America requirement for Federal-aid projects and to report to Congress annually on all such waivers.

AASHTO Analysis:

- This provision adds additional clarity to the Buy America process.

Sec. 11514. High priority corridors on the National Highway System.

Section 11514 amends section 1105 of the Intermodal Surface Transportation Efficiency Act by adding new future Interstate designations along corridors in North Carolina, Kentucky, Arkansas and

Mississippi. This section also requires the Comptroller General to submit a report to Congress on the safety and infrastructure impacts, if any, of the continuation of currently applicable weight limits on those specific highway segments after those segments are open for operation as part of the Interstate system.

Sec. 11515. Interstate weight limits.

Section 11515 amends section 127 of title 23, United States Code to continue current weight limits by adding exemptions to Federal truck weight limits along specific corridors in North Carolina and Kentucky should any such corridors become designated as a route on the Interstate System.

Sec. 11516. Report on air quality improvements.

Section 11516 requires the Comptroller General of the United States to conduct an evaluation of CMAQ that includes consideration of reductions in certain emissions that have resulted from projects under the program, the cost-effectiveness of such reductions, the results of investments under the program in certain communities, the effectiveness of certain performance measures established for traffic congestion and on-road mobile source emissions, and the extent to which the program lacks eligibilities for additional project types that would be likely to contribute to higher air quality.

Sec. 11517. Roadside highway safety hardware.

Section 11517 requires the Secretary, to the greatest extent possible, to implement recommendations from a Government Accountability Office (GAO) Report entitled “Highway Safety: More Robust DOT Oversight of Guardrails and Other Roadside Hardware Could Further Enhance Safety” published in June 2016 and numbered GAO–16–575. GAO recommendations call for the Secretary to develop a third-party verification of roadside safety hardware testing results from crash test labs and to establish a process to enhance the independence of crash test labs when lab employees test devices that were developed within the parent organization of the employee. While Federal-aid eligibility letters issued by FHWA are not required for roadside safety hardware to be eligible for Federal-aid reimbursement, this section directs FHWA to continue issuing Federal-aid eligibility letters as a service to States until the third-party verification processes are complete.

AASHTO Analysis:

- This section has been carried over from a 2019 Senate EPW proposal and now contains direction that does not align with FHWA and AASHTO’s current efforts regarding roadside hardware.
- FHWA has continued to issue Federal-aid eligibility letters, and AASHTO’s understanding is that FHWA has already released guidance on the independence of crash test facilities that conduct product testing. In addition, AASHTO and FHWA spent two years in discussions with potential third-party vendors to verify roadside hardware test results, none of which were successful.
- It should be noted that the GAO report’s recommendation for “third-party verification” is different from “third-party review of crash test results,” as verification involves re-running a random sample of tests to verify that they were done correctly and successfully. If implemented as recommended by the GAO report, both AASHTO and industry would be against random re-testing of roadside hardware, as it is expensive and time consuming, and the additional tests would not add significant knowledge to the baseline understanding of the performance of the devices.
- Currently, while FHWA continues to issue Federal-aid eligibility letters, AASHTO is reviewing the potential for converting MASH to a specification document, which is intended to simplify and streamline crash testing. This conversion may make third-party verification more palatable to potential vendors, or may open up the opportunity for self-certification by manufacturers.

- Thus, this section of the bill is not needed at this time.

Sec. 11518. Permeable pavements study.

Section 11518 requires the Secretary to conduct a study on the effects of permeable pavements on flood control and to develop related models and best practices. This section requires the Secretary to make a report on the results of the study available publicly.

Sec. 11519. Emergency relief projects.

Section 11519 requires the Secretary to revise the Emergency Relief (ER) program manual of FHWA to: include a definition of resilience; identify procedures that may be used to incorporate resilience into ER projects; encourage the use of complete streets design principles in ER projects; develop best practices for improving the use of resilience in ER projects; and to develop and implement a process to track the consideration of resilience as part of the ER program as well as the cost of ER projects.

AASHTO Analysis:

- These changes should be helpful and may address the States' problems with the ER program. However, it does not explicitly state that revisions will address the States' problems and are open to interpretation. The primary State DOT problems with the ER program are as follows: inconsistency from State to State, too much time, and too much documentation required to add betterments, which often results in States having to take the path of least resistance and not pursue betterments.

Sec. 11520. Study on stormwater best management practices.

Section 11520 requires the Secretary and Administrator of EPA to offer to enter into an agreement with TRB to conduct a study on stormwater runoff from highways and pedestrian facilities and provide recommendations regarding potential stormwater management recommendations for State departments of transportation. The study will also examine the potential for the Secretary to assist State departments of transportation in implementing and communicating stormwater management practices for highways and pedestrian facilities.

Sec. 11521. Stormwater best management practices reports.

Section 11521 requires the Administrator of FHWA to update and reissue two existing stormwater best management practices reports to reflect new information and advancements in the field. In addition, this section instructs the Administrator to continue updating the two reports not less frequently than once every five years, unless the reports are either withdrawn or incorporated into regulations.

Sec. 11522. Invasive plant elimination program.

Section 11522 establishes a new grant program to fund projects by States to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way. The term "invasive plant" means a nonnative plant, tree, grass, or weed species. This section requires the Secretary to prioritize projects that utilize native plants and wildflowers. This section limits amounts to be used for equipment to not more than ten percent and administrative and indirect costs to not more than five percent. This section requires each grantee to coordinate with local authorities and to report annually on the uses of the funds. This section limits the Federal share to 50 percent except in the case of projects that utilize native plants and wildflowers which are eligible for 75 percent Federal share. This section authorizes the program for appropriations at \$50,000,000 per year for each of fiscal years 2022 through 2026.

Sec. 11523. Over-the-road bus tolling equity.

Section 1529 of the FAST Act amended title 23 to require that over-the-road buses that serve the public be provided access to certain toll facilities under the same rates, terms, and conditions as public transportation buses. Section 11523 amends title 23 further to ensure there is accountability for equal access to certain tolled facilities between over-the-road buses and public transportation buses. This section adds a reporting requirement for public authorities, and further extends an existing audit requirement to include an audit for reporting compliance.

AASHTO Analysis:

- AASHTO supports assurance/oversight of equitable access to certain tolled facilities for both over-the-road buses and public transportation buses.

Sec. 11524. Bridge terminology.

Section 11524 modernizes bridge terminology used in title 23.

AASHTO Analysis:

- AASHTO fully supports these changes. This will align all terminology in the federal code with the bridge performance measures as adopted by FHWA.

Sec. 11525. Technical corrections.

Section 11525 makes technical corrections to title 23 of the United States Code.

Sec. 15526. Working Group on Covered Resources.

This section requires USDOT to convene a working group to study the use of aggregate resources on federal transportation projects; how State, tribal and local transportation planning agencies may consider the use of aggregate resources and identify measures that may be taken to preserve currently identified aggregate resources for future development.

Sec. 15527. Blood Transport Vehicles.

This section allows permits public jurisdictions with HOV facilities to allow blood transport vehicles to use the facility under certain conditions.

Sec. 11528. Pollinator-friendly practices on roadsides and highway rights-of-way.

This section creates a new grant program to provide funding to for activities along roadsides and highway rights-of-way to benefit pollinators – including the planting and seeding of grasses, wildflowers and milkweed.

Sec. 11529. Active Transportation Infrastructure Investment Program.

This section creates a new competitive grant program for active transportation investments to provide safe and connected active transportation facilities in an active transportation network or active transportation spine. The program is authorized for General Fund appropriations at a level of \$500 million annually.

Sec. 11530. Highway cost allocation study.

This section requires USDOT to conduct a new highway cost allocation study, to be completed within four

years.

DIVISION A—SURFACE TRANSPORTATION / TITLE II—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 12001. Transportation Infrastructure Finance and Innovation Act of 1998 amendments.

Section 12001 makes several updates to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program intended to increase program utilization, streamlines the application process for assistance, and increases transparency in the vetting process for projects seeking TIFIA funds.

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

This section adds eligibility for public infrastructure located near transportation facilities to promote transit-oriented development subject to a September 30, 2025 letter of interest deadline and a cap on the funding available for such projects. This section adds eligibility for airport-related projects subject to a September 30, 2024 letter of interest deadline and a cap on the funding available for such projects, and requires the Secretary to report to Congress on the impact of this new eligibility on the use of TIFIA funds including recommendations for permanent modifications to the program.

This section adds eligibility for projects to acquire plant and wildlife habitats pursuant to a transportation project environmental impact mitigation plan. This section raises the threshold for securing multiple credit rating agency opinions from \$75,000,000 to \$150,000,000. This section requires the Secretary to provide applicants with an estimate of the timeline of application approval or disapproval and, to the maximum extend practical, such estimate shall be less than 150 days from the submission of a letter of interest. In the case of government borrowers, this section removes the requirement that loans be prepaid with excess revenues so long as those revenues are used for surface transportation projects. This section also adds new criteria to the streamlined application process for public agency borrowers intended to increase the likelihood that the Secretary will be able to move more projects through the process expeditiously.

This section provides for a separate loan maturity date for capital assets with an estimated life of more than 50 years.

This section extends the authority to use a portion of TIFIA funding for administrative costs through fiscal year 2026. This section increases overall transparency in the TIFIA process by requiring DOT to publish status reports online.

Section 12001 also extends the authorization of the State Infrastructure Bank program through fiscal year 2026.

AASHTO Analysis:

- These updates to the TIFIA program will ensure greater transparency for applicants and improve the application process.

- While expanding TIFIA eligibility is an appealing option to address unobligated and unallocated TIFIFA funds, extending eligibility to airport-related projects is concerning given that the TIFIA program is funded through the Highway Trust Fund. The Airport and Airway Trust Fund is designed to help fund airport improvements.

Sec. 12002. Federal requirements for TIFIA eligibility and project selection.

This section creates a payment and performance security requirement for certain infrastructure financing.

AASHTO Analysis:

- AASHTO opposes additional requirements created for TIFIA that can reduce its usability.

DIVISION A—SURFACE TRANSPORTATION / TITLE III—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec. 13001. Strategic Innovation for Revenue Collection.

Section 13001 reauthorizes and renames the Surface Transportation System Funding Alternatives Program, to continue the program to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms to help maintain the long-term solvency of the Highway Trust Fund, through pilot projects at the State, local, and regional level. The section expands eligible applicants from State DOTs, to include a local government or a group of local governments, a metropolitan planning organization, and a group of metropolitan planning organizations. The section also increases the federal share for the program to 80 percent of the total cost of a project carried out by an eligible entity that has not otherwise received a grant under this section, and 70 percent of the total cost of a project carried out by an eligible entity that has received at least 1 grant previously.

AASHTO Analysis:

- AASHTO supports examination and testing of user-based alternative revenue mechanisms at the State and regional level, and supports the continuation of the FAST Act’s Surface Transportation System Funding Alternatives program (renamed Strategic Innovation for Revenue Collection) to fund State and regional pilot projects testing the feasibility of moving to mileage-based user fees.
- AASHTO welcomes the increase in federal share to 80 from 70 percent under current law. The extension of eligibility to local governments and metropolitan planning organizations (and groups of those entities) is acceptable if program funding levels can support it. Future revenue options will undoubtedly include those collected at the local level; research into mileage-based user fee options by local governments and metropolitan planning organizations is helpful.

Sec. 13002. National Motor Vehicle Per-Mile User Fee Pilot.

Section 13002 directs the Secretary, in coordination with the Secretary of the Treasury, to establish a pilot program to demonstrate a national motor vehicle per-mile user fee. In carrying out the pilot program, the Secretary, in coordination with the Secretary of the Treasury, shall provide different methods that volunteer participants can choose from to track motor vehicle miles traveled, solicit volunteer participants from all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, ensure an equitable geographic distribution by population among volunteer participants, and include commercial vehicles and passenger motor vehicles. For the purposes of the pilot program, the Secretary of the Treasury shall establish, on an annual basis, per-mile user fees for passenger motor vehicles, light trucks, and medium- and heavy-duty trucks, the amount for which may vary between vehicle types and

weight classes to reflect estimated impacts on infrastructure, safety, congestion, the environment, or other related social impacts.

The section also establishes a Federal System Funding Alternative Advisory Board to assist with providing the Secretary with recommendations related to the structure, scope, and methodology for developing and implementing the pilot program, carrying out the public awareness campaign, and developing a report. Not later than 1 year after the date on which volunteer participants begin participating in the pilot program, and each year thereafter for the duration of the pilot program, the Secretary and the Secretary of the Treasury shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes an analysis of whether the objectives were achieved, how volunteer participant protections were complied with, whether motor vehicle per-mile user fees can maintain the long-term solvency of the Highway Trust Fund and improve and maintain the surface transportation system, which shall include estimates of administrative costs related to collecting such motor vehicle per mile user fees, how the privacy of volunteers was maintained, and equity impacts of the pilot program, including the impacts of the pilot program on low-income commuters.

AASHTO Analysis:

- AASHTO supports a national mileage-based user fee pilot program focused on the development of national policies and standards related to data collection, interoperability, and administrative structure and cost.
- At the forefront of a national pilot program should be an emphasis on augmenting, leveraging, and building upon state efforts. Many best practices have been identified through state pilot programs and research and they should inform any national effort.
- The AASHTO Board of Directors recently approved a policy resolution on this topic, [Development of a National Framework for Mileage-Based User Fee Implementation](#).

Sec. 13003. Performance Management Data Support Program.

Section 13003 extends the authorization and provides a funding source for FHWA to develop, use, and maintain data sets and data analysis tools to MPOs and States in carrying out performance management analyses and requirements. A national performance management program provides information to help Federal, State, local governments and others in their decision-making as they consider strategic transportation investments and policies.

Sec. 13004. Data Integration Pilot Program.

Section 13004 authorizes for appropriation from the General Fund \$2,500,000 for each of fiscal years 2021 through 2025 to research and develop models that integrate real-time information, including weather conditions, roadway conditions, and information from emergency responders. This section authorizes the Secretary to facilitate data integration between DOT and the National Weather Service, as well as address safety, resiliency, and vulnerability threats, by providing tools to help public safety officials and end users make important transportation decisions.

AASHTO Analysis:

- This is focused on operational data to look at data/information in real-time. Decision makers need predictive and analytical tools to analyze future conditions to make informed decisions on how to spend money to make the system more resilient.
- This section should be expanded to not focus solely on real-time integration but integration of data

in general for both real-time operational decision-making (as the events are unfolding) and predictive modeling to better mitigate future events from occurring.

Sec. 13005. Emerging technology research pilot program.

Section 13005 establishes a pilot program to conduct emerging technology research, specifically including advanced and additive manufacturing (3-D printing) technologies, as well as research into activities to reduce the impact of automated driving systems and advanced driver automation systems technologies on pavement and infrastructure performance, and to improve transportation infrastructure design. This section authorizes for appropriation from the General Fund \$5,000,000 for each of fiscal years 2022 through 2026 to support the pilot program.

Sec. 13006. Research and technology development and deployment.

Section 13006 expands the objectives of the Turner Fairbank Highway Research Center to support research on non-market-ready technologies in consultation with public and private entities. This section establishes an open challenge and research proposal pilot program that provides grants for proposals to research needs or challenges identified or determined to be important by the Secretary. This section also expands the Technology and Innovation Deployment Program by adding a focus on accelerated market readiness efforts, and increases funding for the program, including \$100,000,000 in new and innovative construction technologies for smarter, accelerated project delivery. This section extends the authorization for the Accelerated Implementation and Deployment of Pavement Technologies program and adds pavement-related considerations to enhance the environment and promote sustainability in the reporting under this program. The modified Advanced Transportation Technologies and Innovative Mobility Deployment program includes intermodal connectivity and a rural set-aside of not less than 20 percent and allows for the retrofitting of DSRC technology under certain conditions. This section also authorizes a new Center of Excellence on New Mobility and Automated Vehicles to research the impact of automated vehicles and new mobility, such as docked and dockless bicycles and electric scooters.

AASHTO Analysis:

- This section directs new efforts and expands eligible topic areas within FHWA’s research program, some of which are of interest to AASHTO, such as expanded eligibility for research on the deployment of energy and broadband infrastructure. However, if existing programs are expanded or new programs are added, AASHTO would like to see additional funding provided instead of carving out money from existing research funding, such as for the accelerated deployment of digital construction management, the proposed new Center of Excellence, the study on calcined bauxite as a high-friction surface treatment, and the open challenge research program. Partitioning funds from an already limited budget greatly reduces the flexibility of the federal government to conduct research needed for continuing efforts as well as new topic areas.

Sec. 13007. Workforce development, training, and education.

Section 13007 provides authority to allow States greater flexibility to address surface transportation workforce development, training, and education needs, including activities that address current workforce gaps, such as work on construction projects. This section permits States to obligate funds for purposes such as pre-apprenticeships, apprenticeships, and career opportunities for on-the-job training, and vocational school support. This section modifies an existing grant program under section 504(f) in title 23 that requires the Secretary to make workforce development grants. This section expands the eligibility of educational institutions beyond institutions of higher education. This section also authorizes the Secretary to award grants for training deployment purposes beyond the development, testing, and

review of new curricula and education programs. This section encourages coordination and partnership with stakeholders, including industry, construction, labor organizations, and relevant government agencies, such as the U.S. Department of Labor Employment and Training Administration, the U.S. Department of Education, and State, regional, and local partners, such as Workforce Development Boards. This section also establishes minimum reporting requirements for grant recipients to establish accountability in the award of grants.

Sec. 13008. Wildlife-vehicle collision research.

Section 13008 adds animal detection systems to reduce the number of wildlife-vehicle collisions as eligible for priority consideration for intelligent transportation system (ITS) research projects. This section amends membership of the advisory committee required to advise the Secretary on carrying out ITS programs.

Sec. 13009. Transportation Resilience and Adaptation Centers of Excellence.

Section 13009 directs the Secretary to designate 10 regional Centers of Excellence for Resilience and Adaptation and 1 national Center of Excellence for Resilience and Adaptation, which shall serve as a coordinator for the regional Centers, to receive grants to advance research and development that improves the resilience of regions of the United States to natural disasters, extreme weather, and the effects of climate change on surface transportation infrastructure and infrastructure dependent on surface transportation. Subject to the availability of appropriations, the Secretary shall provide to each Center of Excellence a grant of not less than \$5,000,000 for each of fiscal years 2022 through 2031 to carry out the activities.

Activities include supporting climate vulnerability assessments informed by climate change science, including national climate assessments produced by the United States Global Change Research Program under section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936), relevant feasibility analyses of resilient transportation improvements, and transportation resilience planning, development of new design, operations, and maintenance standards for transportation infrastructure that can inform Federal and State decision-making, research and development of new materials and technologies that could be integrated into existing and new transportation infrastructure, development, refinement, and piloting of new and emerging resilience improvements and strategies, including natural infrastructure approaches and relocation, development of and investment in new approaches for facilitating meaningful engagement in transportation decision-making by local, Tribal, regional, or national stakeholders and communities, technical capacity building, workforce development and training, development and dissemination of data, tools, techniques, assessments, and information that informs Federal, State, Tribal, and local government decision-making, policies, planning, and investments, education and outreach regarding transportation infrastructure resilience, and technology transfer and commercialization.

AASHTO Analysis:

- Assuming the Centers will use the FHWA vulnerability assessment framework as a starting point, this might pose a concern for some states, as not all have adopted this framework.

Sec. 13010. Transportation Access Pilot Program.

Section 13010 establishes a transportation pilot program to develop or procure an accessibility data set and make it available to each eligible entity selected to participate in the pilot program, to improve transportation planning. The pilot will measure the level of access by surface transportation modes to important destinations, which may include jobs, health care facilities, childcare facilities, educational and

workforce training facilities, housing, food sources, points within the supply chain for freight commodities, domestic and international markets, and connections between surface transportation modes. The pilot will assess the change in accessibility that would result from new transportation investments.

AASHTO Analysis:

- AASHTO supports developing and strengthening the data and analytical platform for accessibility.
- The savings provision prevents USDOT from creating an accessibility performance measure and requiring States and MPOs to implement it.

DIVISION A—SURFACE TRANSPORTATION / TITLE IV—INDIAN AFFAIRS

Sec. 14001. Definition of Secretary.

Section 14001 defines the term “Secretary” as the Secretary of the Interior.

Sec. 14002. Environmental reviews for certain tribal transportation facilities.

Section 14002 aligns the Department of the Interior’s process of expediting environmental reviews for tribal transportation safety projects to be similar to the Department of Transportation’s process.

Sec. 14003. Programmatic agreements for tribal categorical exclusions.

Section 14003 allows the Secretary of the Interior or the Secretary of Transportation to enter into programmatic agreements with Indian tribes.

Sec. 14004. Use of certain tribal transportation funds.

Section 14004 removes the 3 percent set-aside for the Tribal Transportation Facility Bridges program and specifies funding eligibilities for the same program.

Sec. 14005. Bureau of Indian Affairs road maintenance program.

Section 14005 authorizes \$50,000,000 for the Road Maintenance Program for fiscal year 2022, with increases of \$2,000,000 per year through fiscal year 2026.

Sec. 14006. Study of road maintenance on Indian land.

Section 14006 directs the Secretary of the Interior, in consultation with the Secretary of Transportation, to study and address the deferred maintenance backlog of existing roads on Indian land.

Sec. 14007. Maintenance of certain Indian reservation roads.

Section 14007 allows the Commissioner of U.S. Customs and Border Protection to transfer funds to the BIA to maintain or repair roads under the jurisdiction of the BIA.

Sec. 14008. Tribal transportation safety needs.

Section 14008 directs the Secretary, in consultation with the Secretary of DOI, Indian tribes, and Alaska Native villages to develop best practices and create a standardized motor vehicle crash report form. Tribes could voluntarily use this crash report form to capture data and communicate with State departments of transportation. This section directs the Bureau of Indian Affairs to use the Incident Management Analysis and Reporting System form of the applicable State to report motor vehicle crash

data. This section also modifies the set-aside amount for the Tribal Transportation Program Safety Fund from 2 percent to 4 percent.

Sec. 14009. Office of Tribal Government Affairs.

Section 14009 establishes an Assistant Secretary for Tribal Government Affairs under the DOT, who shall be appointed by the President but not Senate-confirmed.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE I—MULTIMODAL AND FREIGHT TRANSPORTATION

Subtitle A—Multimodal Freight Policy

Sec. 21101. Office of Multimodal Freight Infrastructure and Policy.

This section would establish an Office of Multimodal Freight Infrastructure and Policy within the Department of Transportation (DOT). Headed by an Assistant Secretary of Multimodal Freight, the Freight Office would be a one-stop-shop responsible for developing and managing freight policy and funding programs within the DOT.

AASHTO Analysis:

- AASHTO supports.

Sec. 21102. Updates to National Freight Strategic Plan.

This section would update the National Freight Strategic Plan to include best practices for reducing environmental impacts, consider potential impacts of the freight system on rural and historically-disadvantaged communities, strategies for decarbonization, and the impacts of e-commerce on the national multimodal freight system.

AASHTO Analysis:

- AASHTO supports.

Sec. 21103. State Collaboration with National Multimodal Freight Network.

This section would increase the amount of mileage that a State can propose adding to the National Multimodal Freight Network.

AASHTO Analysis:

- AASHTO supports.

Sec. 21104. Improving State Freight Plans.

This section would require State freight plans to include supply chain cargo flows, an inventory of commercial ports, findings and recommendations from any multi-State freight compacts, the impacts of e-commerce on freight infrastructure, the considerations of military freight, and an assessment of truck parking facilities in the State. The section would also change the frequency with which a State must update its freight plan from every five years to every four years.

AASHTO Analysis:

- AASHTO supports.

Sec. 21105. Implementation of National Multimodal Freight Network.

This section would require the Secretary of Transportation (Secretary) to report to relevant Congressional committees on the status of the final National Multimodal Freight Network as required by the Fixing America's Surface Transportation Act of 2015 (P.L. 114-94).

AASHTO Analysis:

- AASHTO supports.

Sec. 21106. Multi-State Freight Corridor Planning.

This section would authorize States and certain other local governmental entities that are regionally linked with an interest in a specific multi-State freight corridor to enter into multi-State compacts to promote the improved mobility of goods. This section would require the Secretary to establish a grant program to provide financial assistance to compacts in amounts up to \$2 million for a new multi-State compact and \$1 million for an existing multi-State compact.

AASHTO Analysis:

- AASHTO supports.

Sec. 21107. State Freight Advisory Committees.

This section expands membership of State Freight Advisory Committees and provides specific qualification requirements.

Subtitle B—Multimodal Investment

Sec. 21201. National Infrastructure Project Assistance.

This section would establish and authorize \$10 billion over five years for the National Infrastructure Project Assistance Program. (The IJA appropriates \$5 billion over five years.) This program would provide single- or multi-year grants to projects generating national or regional economic, mobility, or safety benefits for large and smaller-scale projects. Eligible projects include highway or bridge projects, freight intermodal or freight rail projects, railway-highway grade separation or elimination projects, intercity passenger rail projects, and certain public transportation projects.

AASHTO Analysis:

- In creating a new appropriated grant program for projects of national significance, focus should be on major transportation projects that are difficult to fund within formula apportionments.
- Under this section, 50 percent of funding is set aside for projects with a cost between \$100,000,000 and \$500,000,000. The program would be better served focusing on large-scale projects for all modes of transportation.
- The costs associated with applying for a discretionary grant under this program for a smaller project pose a challenge for project sponsors. As such, a traditional formula program is a better fit for small-scale projects.

Sec. 21202. Local and Regional Project Assistance.

This section would authorize \$1.5 billion a year for the Local and Regional Project Assistance Program (the RAISE/BUILD program) to provide grants for surface transportation projects that will have significant local

or regional impacts. (The IJA appropriates \$7.5 billion over five years.) Eligible projects include highway or bridge projects, passenger or freight rail projects, port infrastructure projects, and surface transportation components of airport projects, among other surface transportation projects. The section would limit the size of each grant to \$25 million and provide an equal split between rural and urban areas.

AASHTO Analysis:

- Provision would double current levels for the RAISE program.
- While AASHTO understands the desire for discretionary decision-making, we believe Congress should continue to prioritize formula funding over discretionary funding.

Sec. 21203. National Culvert Removal, Replacement, and Restoration Grant Program.

This section would authorize \$800 million a year for a National Culvert Removal, Replacement, and Restoration Program to provide grants to States, local governments, and Tribes to address anadromous fish passage as well as provide funding for certain freshwater impacts to marine fish and shellfish species. (The IJA appropriates \$1 billion over five years.) Requires the Secretary to consult with the Undersecretary of Commerce for Oceans at Atmosphere to prioritize projects that would have a meaningful impact on declining stocks.

Sec. 21204. National Multimodal Cooperative Freight Research Program.

This section would authorize \$3.75 million annually for a national cooperative freight transportation research program. This section would direct the Secretary to enter into agreement with the National Academy of Sciences to establish an advisory committee to recommend a national research agenda on ways to improve the efficiency and resiliency of freight movement.

AASHTO Analysis:

- AASHTO supports.

Sec. 21205. Rural and Tribal Infrastructure Advancement.

This section would provide the Secretary an average of \$2 million a year to establish a pilot program within the Build America Bureau to provide assistance to rural and Tribal communities. The pilot would provide financial, technical, and legal assistance to help rural and Tribal communities with development phase activities when evaluating potential transportation projects.

Subtitle C—Railroad Rehabilitation and Improvement Financing Reforms

Sec. 21301. Railroad Rehabilitation and Improvement Financing Codification and Reforms.

This section would codify the Railroad Rehabilitation and Improvement Financing (RRIF) program in title 49 and makes reforms to the RRIF program including:

- Adding landside port infrastructure as an eligible project category,
- Making permanent the transit-oriented development project eligibility,
- Codifying the RRIF Express program,
- Providing \$50 million each year to subsidize credit risk premiums, up to \$20 million per loan, and requiring those premiums to be refunded upon repayment.

AASHTO Analysis:

- Authorizing \$50 million a year for credit-risk premium assistance brings the program on par with other DOT loan programs.
- Expanded eligibility and codification of the RRIF express programs are welcome changes.

Sec. 21302. Substantive Criteria and Standards.

This section would require the Secretary to update the publicly available credit program guide.

AASHTO Analysis:

- AASHTO supports.

Sec. 21303. Semi-Annual Report on Transit-Oriented Development Eligibility.

This section would require the Secretary to submit a report to Congress within six months of enactment, and biannually thereafter, that identifies the number of applicants that sought a RRIF loan for a transit-oriented development project, the number of loans provided to such applicants, and the reasons for providing or declining to provide the requested loan for projects.

AASHTO Analysis:

- AASHTO supports this provision, which will provide additional transparency for the RRIF program.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE II—RAIL

Subtitle A—Authorization and Programs

Sec. 22101. Grants to Amtrak.

This section would authorize appropriations for grants to Amtrak for activities associated with the Northeast Corridor and the National Network. This section also allocates funding for oversight, the State-Supported Route Committee, the Northeast Corridor Commission, Interstate Rail Compacts, compliance with the Americans with Disabilities Act, and corridor development.

In total the bill provides an average of \$3.2 billion a year for the National Network, and an average of \$1.2 billion a year for the Northeast Corridor.

AASHTO Analysis:

- AASHTO supports.

Sec. 22102. Federal Railroad Administration.

This section would authorize appropriations for the operations of the Federal Railroad Administration and for activities associated with the agency’s railroad research and development activities. This section also authorizes the Secretary to withhold funding for certain Transportation Technology Center construction activities and for Rail Research and Development Center of Excellence grants.

AASHTO Analysis:

- AASHTO supports.

Sec. 22103. Consolidated Rail Infrastructure and Safety Improvements Grants.

This section would authorize \$1 billion a year for the Consolidated Rail Infrastructure and Safety Improvements grant program.

AASHTO Analysis:

- AASHTO supports.

Sec. 22104. Railroad Crossing Elimination Program.

This section would authorize \$500 million a year for the new Railroad Crossing Elimination grant program. This includes a small set-aside to carry out a highway-rail grade crossing safety information and education program.

AASHTO Analysis:

- AASHTO supports.

Sec. 22105. Restoration and Enhancement Grants.

This section would authorize \$50 million a year for the Restoration and Enhancement grants program.

AASHTO Analysis:

- AASHTO supports.

Sec. 22106. Federal-State Partnership for Intercity Passenger Rail Grants.

This section would authorize \$1.5 billion a year for the Federal-State Partnership for Intercity Passenger Rail grants program.

AASHTO Analysis:

- AASHTO supports.

Sec. 22107. Amtrak Office of Inspector General.

This section authorizes an average of \$27.5 million a year for the Office of Inspector General of Amtrak.

Subtitle B—AMTRAK REFORMS

Sec. 22201. Amtrak Findings, Mission, and Goals.

This section would amend Amtrak’s mission and goals to emphasize its role in providing service to rural communities, recognize the value and importance of long-distance routes, and encourage Amtrak to maximize the benefits of the Federal investments.

Sec. 22202. Composition of Amtrak’s Board of Directors.

This section would revise the composition of Amtrak’s Board of Directors to ensure representation across the Amtrak network, and would require regular engagement with the disability community and Amtrak employees.

Sec. 22203. Station Agents.

This section would require that Amtrak ensure at least one Amtrak ticket agent is employed at each station building that averages at least 40 passengers per day.

AASHTO Analysis:

- AASHTO opposes.

Sec. 22204. Increasing Oversight of Changes to Amtrak Long-Distance Routes and Other Intercity Services.

This section would require Amtrak to include information regarding any change or plans to change a route, frequency of service, or station stops in its annual operations report and its general and legislative annual report to Congress.

Sec 22205. Improved Oversight of Amtrak Accounting.

This section would require the Secretary, in consultation with Amtrak, to define, maintain, and periodically update an account structure and improve accounting methodologies, as necessary, to support the Northeast Corridor and the National Network. This section would also provide that Amtrak, in consultation with DOT, shall maintain and implement any account structures and improvements to enable Amtrak to produce sources and uses statements for each service line and each asset line that identifies sources, uses of revenues, appropriations, and transfers.

AASHTO Analysis:

- AASHTO supports.

Sec. 22206. Improved Oversight of Amtrak Spending.

This section would require the Secretary to establish substantive and procedural requirements, including schedules, for Amtrak grant requests. In their grant requests, Amtrak would have to report a number of specific details, including to categorize and identify the amount of funds each service type receives and spends by operating expenses, debt service, capital expenses, and contingency levels; describe the operations, services, programs, projects, and other activities to be funded, by category; provide the estimated projected scope, schedule, and budget necessary to complete each project and program; describe the performance measures used to quantify expected and actual project outcomes and benefits; and describe the status of efforts to improve Amtrak's safety culture.

AASHTO Analysis:

- AASHTO supports.

Sec. 22207. Increasing Service Line and Asset Line Plan Transparency.

This section would redefine business lines as "service lines" and require Amtrak to submit annual updates on financial sources, uses statements, and forecasts to Congress. The section also would require Amtrak to provide information on access services of Amtrak-owned or controlled infrastructure and facilities as a part of the five-year service line plans, to jointly develop its five-year service line plans with the Secretary, and to submit the State-supported routes service line plan to the State-Amtrak Intercity Passenger Rail Committee.

AASHTO Analysis:

- AASHTO supports.

Sec. 22208. Passenger Experience Enhancement.

This section would remove the requirement that food and beverage services on trains may only be provided if their revenues break even during a fiscal year. This section would also require Amtrak to establish a working group to develop recommendations to improve Amtrak's onboard food and beverage services. Amtrak must submit a plan to implement the recommendations to Congress.

AASHTO Analysis:

- AASHTO supports.

Sec. 22209. Amtrak Smoking Policy.

This section would require Amtrak to prohibit smoking, including the use of electronic cigarettes, onboard Amtrak trains.

Sec. 22210. Protecting Amtrak Routes through Rural Communities.

This section would prohibit Amtrak from discontinuing, reducing the frequency of, suspending, or substantially altering the route of rail service on any segment of any long-distance route if Amtrak receives adequate funding for that route.

Sec. 22211. State-Supported Route Committee.

This section would require the State-Amtrak Intercity Passenger Rail Committee (SAIPRC) to update its cost allocation methodology to improve accountability and transparency, while still requiring States to pay all costs attributable to their services, and to report to Congress on the updated methodology. This section would also direct Amtrak to provide monthly invoices to each State as well as the SAIPRC that describes operating costs of State-supported routes.

This section would require Amtrak to consult with stakeholders early in the development of any new State-supported route.

AASHTO Analysis:

- AASHTO supports.

Sec. 22212. Enhancing Cross Border Service.

This section would require Amtrak to report to Congress on how to improve Amtrak passenger rail service between the United States and Canada. The report would identify challenges to Amtrak operations in Canada, such as delays associated with customs and immigration inspections.

AASHTO Analysis:

- AASHTO supports.

Sec. 22213. Creating Quality Jobs.

This section would prohibit Amtrak from contracting out railroad work covered by a collective bargaining agreement during the time such an employee has been laid off and has not been recalled to perform such work.

Sec. 22214. Amtrak Daily Long-distance Service Study.

This section would conduct a study to evaluate the restoration of daily intercity rail passenger service on non-daily and discontinued routes.

Subtitle C—Intercity Passenger Rail Policy

Sec. 22301. Northeast Corridor Planning.

This section would require the Northeast Corridor Commission to create a service development plan, to be updated every five years, and to create an annual capital investment plan aligned with categories

required for Amtrak capital planning. These plans must all be submitted to Congress. This section would also require Amtrak and each State and public transportation entity that owns infrastructure used for intercity rail passenger transportation along the Northeast Corridor to develop an asset management system to inform the Northeast Corridor Commission's capital investment plan.

AASHTO Analysis:

- AASHTO supports.

Sec. 22302. Northeast Corridor Commission.

This section would require the Northeast Corridor Commission to report on ridership trends and the progress made to eliminate the state-of-good-repair backlog. This section would also require Amtrak and commuter railroads to develop and update timetables for usage agreements of facilities and services.

AASHTO Analysis:

- AASHTO supports.

Sec. 22303. Consolidated Rail Infrastructure and Safety Improvements.

This section would expand eligibility to Tribes and short line associations and clarifies eligibility for projects that prevent trespassing, fund innovative rail technologies, and improve hazardous material response plans. This popular discretionary grant program remains largely unchanged.

Sec. 22304. Restoration and Enhancement Grants.

This section would broaden the applicant eligibility for the Restoration and Enhancement grants program to include Tribes. This section also allows for the program to provide funds to support a route for up to six years (increased from three years), still with a diminishing Federal share each year.

Sec. 22305. Railroad Crossing Elimination Program.

This section would establish a competitive grant program under which the Secretary shall award grants for projects that make improvements to highway and pathway rail crossings, such as eliminating highway-rail at-grade crossings that are frequently blocked by trains, adding gates or signals, relocating track, or installing a bridge. The program would improve the safety of communities and the mobility of people and goods. At least 20 percent of grant funds are reserved for projects located in rural areas or on Tribal lands.

AASHTO Analysis:

- AASHTO supports.

Sec. 22306. Interstate Rail Compacts.

This section would establish a competitive grant program to provide financial assistance to entities implementing interstate rail compacts for costs of administration, systems planning, and operations coordination. Grants under this program may not exceed \$1,000,000 annually and require a non-Federal match of at least 50 percent.

AASHTO Analysis:

- AASHTO supports.

Sec. 22307. Federal-State Partnership for Intercity Passenger Rail Grants.

This section would reform the Federal-State Partnership grant program by broadening project eligibility beyond Amtrak- and State-owned assets and to allow expansion of or construction on new intercity passenger rail routes, in addition to capital projects that address state-of-good repair. The program requires at least 45 percent of the funds to go to projects located on the Northeast Corridor, and at least 45 percent of the funds to be for projects not located on the Northeast Corridor. In addition, at least 20 percent of such funds for the National Network must benefit a long-distance route. This section would also allow FRA to provide funding to a project over multiple years.

AASHTO Analysis:

- AASHTO supports.

Sec. 22308. Corridor Identification and Development Program.

This section would require the Secretary to establish a program to develop intercity passenger rail corridors. Development would include creating new routes, enhancing service on existing routes, or restoring former service. Each rail corridor selected for development would work with DOT and relevant States to prepare a plan outlining capital projects needed to establish service. This section would also require the Secretary to report annually to Congress on rail corridors selected for development.

AASHTO Analysis:

- AASHTO supports.

Sec. 22309. Surface Transportation Board Passenger Rail Program.

This section would direct the Surface Transportation Board to hire additional full-time employees to assist in carrying out its passenger rail responsibilities.

Subtitle D—Rail Safety

Sec. 22401. Railway-Highway Crossings Program Evaluation.

This section would require the Secretary to evaluate whether the railway-highway crossings program provides sufficient flexibility and resources for States to address grade crossing safety issues. The section also provides for the Secretary to make any recommendations to improve the effectiveness of the program.

Sec. 22402. Grade Crossing Accident Prediction Model.

This section would require the Federal Railroad Administrator to update the Federal Railroad Administration’s grade crossing accident prediction and severity model and provide training on the use of the updated model within two years of enactment.

AASHTO Analysis:

- AASHTO supports.

Sec. 22403. Periodic Updates to Highway-Rail Crossing Reports and Plans.

This section would require States to submit annual reports to DOT with information on progress implementing plans to improve safety highway-rail grade crossings, plans that were required by the FAST Act. This section would also require DOT to periodically assess and report to Congress on States’ progress implementing their plans, as well as to assess the strategies used by States to improve the safety of

highway-rail grade crossings.

Sec. 22404. Blocked Crossing Portal.

This section would require the Federal Railroad Administration to establish a blocked crossing portal to collect information about blocked highway-rail grade crossings from the public. The Federal Railroad Administration is to use the information to assess the impact of blocked crossings, inform outreach to communities and railroads about blocked crossings, and produce an annual report on the program. This pilot program will expire three years after enactment.

AASHTO Analysis:

- AASHTO supports.

Sec. 22405. Data Accessibility.

This section would require the Chief Information Officer of the DOT to review of the website of the Federal Railroad Administration's Office of Safety Analysis and provide recommendations for improving the website's usability and accessibility to the public. This section would also require that the website be updated, taking into account the Chief Information Officer's recommendations, within one year of receiving them.

Sec. 22406. Emergency Lighting.

This section would direct the Secretary to require all rail carriers that provide intercity passenger rail or commuter rail service to implement periodic inspection plans to ensure that passenger equipment complies with the existing regulations. These regulations include ensuring that rail cars have adequate emergency lighting available if power is lost for passengers, crewmembers, and first responders to safely move through and out of a rail car.

Sec. 22407. Comprehensive Rail Safety Review of Amtrak.

This section would require the Secretary to conduct a focused review of Amtrak's overall safety culture, including its safety-related processes and procedures. This section also requires Amtrak to create and annually update a plan to address any findings from the Secretary's review.

Sec. 22408. Completion of Hours of Service and Fatigue Studies.

This section would direct the Federal Railroad Administration to start pilot programs required under Federal law to analyze practices that could reduce fatigue for train and other railroad employees.

Sec. 22409. Positive Train Control Study.

This section would require the GAO to examine the annual costs to public commuter railroads to operate and maintain positive train control systems, and to submit a summary report on the findings to Congress.

Sec. 22410. Operating Crew Member Training, Qualification, and Certification.

This section would require the Secretary to initiate audits of railroads' training and certification programs for locomotive engineers and conductors. The section requires audits of Class I railroads, including Amtrak and other intercity passenger rail providers, at least once every five years. The section requires audits of a select number of Class II and Class III railroads annually. The section requires railroads to update their training and certification programs to eliminate any deficiencies identified by an audit. The section also requires the Secretary to publish an annual report summarizing the results of its audits.

Sec. 22411. Transparency and Safety.

This section would revise the Secretary's authority to issue nonemergency waivers and suspend compliance with rail safety regulations by requiring a public notice and comment process in regards to such a waiver or suspension. This section also provides that, not later than one year after the date on which a waiver has been in continuous effect for a six-year period, the Secretary shall review and determine whether a rulemaking consistent with the waiver is in the public interest and consistent with railroad safety. The Secretary shall publish the review and analysis of the waiver, and may initiate a rulemaking to incorporate relevant aspects of the waiver.

Sec. 22412. Research and Development.

This section would provide the Secretary with express authority to construct or repair the Federal Railroad Administration's Transportation Technology Center's (TTC) buildings and facilities, including both outdoor infrastructure and indoor training areas. This section also authorizes the Secretary to collect fees or rents from facility users to offset appropriated amounts for the cost of providing facilities or other services at the TTC, and to establish a revolving fund for such amounts for operation, maintenance, repair, or improvement of the TTC. This section also would authorize the Secretary to allow TTC lessees and contractors to purchase insurance for activities and assets at TTC to mitigate risk. This section also authorizes the Secretary to enter into a contract for the purchase of electric power to enable use of the land at TTC for projects to produce energy from renewable sources.

Sec. 22413. Rail Research and Development Center of Excellence.

This section establishes a Center of Excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation. This section authorizes the Secretary to issue grants in support of this program. The Center would support basic and applied research, including research on advances in rolling stock, advanced positive train control, human factors, inspection technology, and remote sensing. The Federal share of costs under this program would be 50 percent.

AASHTO Analysis:

- AASHTO supports.

Sec. 22414. Quarterly Report on Positive Train Control System Performance.

This section requires each railroad required to implement positive train control to submit a quarterly report on positive train control system performance to the DOT. The report is to contain information on the number of system initialization failures and system malfunctions, among other data points. This section allows the Secretary, three years after enactment, to reduce the frequency of reporting to not less than twice per year or justify maintaining quarterly reporting.

Sec. 22415. Speed Limit Action Plans.

This section requires railroad carriers to submit a speed limit action plan and for carriers to annually review their action plans to ensure effectiveness. The section requires a carrier to submit a revised speed limit action plan at least 90 days prior to implementing any significant operational or territorial operating changes.

Sec. 22416. New Passenger Service Pre-Revenue Safety Validation Plan.

This section requires any railroad providing new, regularly scheduled intercity or commuter rail passenger

transportation, or expanding or reinitiating service, to create a comprehensive, pre-revenue safety validation plan. Once submitted, the railroad must comply with the plan as it prepares to start the new service. This section requires the agency to develop conforming regulations to implement this section.

Sec. 22417. Federal Railroad Administration Accident and Incident Investigations.

This section requires the Secretary to create a standardized accident and rail investigation process and, when developing the process, to consider ways to maintain the confidentiality of certain entities involved in investigations, when requested.

Sec. 22418. Civil Penalty Enforcement Authority.

This section amends the Federal Railroad Administration's existing rail safety civil penalty authority to add a provision allowing the agency to resolve civil penalty assessments for non-hazardous materials regulation violations administratively, without having to refer the disputes to the Department of Justice for litigation.

Sec. 22419. Advancing Safety and Innovative Technology.

This section requires the Secretary to issue safety regulations necessary for high-speed rail services and, before issuing any safety regulations, to consult with developers of new high-speed rail technologies to inform methods for evaluating safety performance.

Sec. 22420. Passenger Rail Vehicle Occupant Protection Systems.

This section requires the Federal Railroad Administration to complete a study on how passenger rail vehicle occupant protection systems could materially improve passenger safety. Upon completion of the study, the Administrator must report on the findings to Congress. In addition, the section provides that the agency may issue a rule with standards for the use of occupant protection systems in new passenger rail rolling stock.

Sec. 22421. Federal Railroad Administration Reporting Requirements.

This section requires the Secretary to update its accident and incident reporting form to collect additional information on the train equipment and crew involved in an accident or incident.

Sec. 22422. National Academies Study On Trains Longer Than 7,500 Feet.

This section requires the Secretary to spend between \$1 million and \$2 million on a report by the National Academies on the operations, safety, and efficiency of trains longer than 7,500 feet, to be submitted to relevant Congressional committees within two years.

Sec. 22423. High-Speed Train Noise Emissions.

This section authorizes the Secretary to lead, though still in consultation with the Environmental Protection Agency, when prescribing regulations governing railroad-related noise emission standards for trains operating on the general railroad system at speeds greater than 160 miles per hour.

Sec. 22424. Critical Incident Stress Plans.

This section requires the Secretary to amend critical incident stress plan regulations encompassing employees of commuter railroads and intercity passenger railroads who directly interact with passengers and to ensure that assaults of such employees are included in the definition of critical incident under the regulations.

Sec. 22425. Requirements for railroad freight cars placed into service in the United States.

This section specifies new requirements for assembly, and origin of railroad freight cars.

Sec. 22426. Railroad point of contact for public safety issues.

This section requires all railroads to provide railroad contact information for public safety issues, including a telephone number, to the relevant Federal, State, and local oversight agencies.

Sec. 22427. Controlled substances testing for mechanical employees.

This section requires all mechanical employees of railroads to be subject to breath or body fluid testing, including random testing, reasonable suspicion testing, reasonable cause testing, pre-employment testing, return-to-duty testing, and follow-up testing.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE III—MOTOR CARRIER SAFETY

Sec. 23001. Authorization of Appropriation.

This section would authorize appropriations out of the Highway Trust Fund for administrative expenses of the Federal Motor Carrier Safety Administration, including appropriations to carry out the motor carrier safety assistance program, the high priority program, the commercial motor vehicle enforcement training and support grant program, the commercial motor vehicle operators grant program, and the financial assistance program for commercial driver's license implementation.

Sec. 23002. Motor Carrier Safety Advisory Committee.

This section would revise the Motor Carrier Safety Advisory Committee to include small business motor carriers and extend the committee through September 2025.

Sec. 23003. Combating Human Trafficking.

This section would allow funding to support the recognition, prevention, and reporting of human trafficking as well as the detection of and enforcement of laws relating to such criminal activity.

AASHTO Analysis:

- AASHTO supports.

Sec. 23004. Immobilization Grant Program.

This section would establish a grant program to provide discretionary grants to States to immobilize or impound passenger-carrying commercial motor vehicles that are determined to be unsafe or fail inspection. This section would require the Secretary to work with States to develop a list of safety violations that would warrant the immediate immobilization or impoundment of a passenger-carrying commercial motor vehicle.

Sec. 23005. Commercial Motor Vehicle Enforcement Training and Support.

This section would establish a grant program to provide discretionary grants for nonprofit organizations to provide training to non-Federal employees who conduct commercial motor vehicle enforcement activities and to develop related training materials.

Sec. 23006. Study of Commercial Motor Vehicle Crash Causation.

This section would require the Secretary to carry out a comprehensive study to determine the causes of, and contributing factors to, crashes that involve a commercial motor vehicle, as well as to identify data requirements, data collection procedures, reports, and any other measures that can help improve the ability of States and the Secretary to evaluate future crashes, monitor crash trends, and develop effective safety policies. This section would also require the Secretary to submit a report to Congress describing the results of the study and any legislative recommendations.

Sec. 23007. Promoting Women in the Trucking Workforce.

This section would establish the Women of Trucking Advisory Board to identify barriers and industry trends that directly or indirectly discourage women from pursuing and retaining careers in trucking, and examine ways to facilitate support for women pursuing careers in trucking including training and outreach programs.

AASHTO Analysis:

- AASHTO supports.

Sec. 23008. State Inspection of Passenger-Carrying Commercial Motor Vehicles.

This section would require the Secretary to solicit additional comment on the advance notice of proposed rulemaking entitled “State Inspection Programs for Passenger-Carrier Vehicles” within one year, and to issue a final rule if supported by the data and information.

Sec. 23009. Truck Leasing Task Force.

This section would require the Secretary, in consultation with the Secretary of Labor, to establish a Truck Leasing Task Force. The Task Force shall examine common truck leasing arrangements, including the impact of inequitable leasing agreements on the industry, and resources to assist commercial motor vehicle drivers in assessing the financial impacts of leasing agreements. This section requires the Task Force to submit its findings and recommendations to Congress, as well as the Secretary of Transportation, and the Secretary of Labor.

Sec. 23010. Automatic Emergency Braking.

This section would require the Secretary, not later than two years after enactment, to prescribe a motor vehicle safety standard and accompanying performance requirements for automatic emergency braking systems for heavy-duty commercial motor vehicles, and to require that systems installed in such vehicles be in use during operation. This section would also direct the Secretary to study equipping other commercial motor vehicles with an automatic emergency braking system and, if warranted, develop performance standards for such systems.

Sec. 23011. Underride Protection.

This section would direct the Secretary, within one year of enactment, to strengthen rear underride guard standards and to conduct additional research on the design and development of rear impact guards to prevent crashes at higher speeds. This section would also require the Secretary, within one year of enactment, to amend regulations on minimum periodic inspection standards and reports to include rear impact guards and rear end protection. The Secretary would also be directed to complete additional research on side underride guards, and, if warranted, develop performance standards for side underride guards. This section also creates an Advisory Committee on Underride Protection.

Sec. 23012. Providers of Recreational Activities.

This section would exempt providers of recreational activities operating small passenger vehicles from Federal registration requirements if they operate within a 150 air-mile radius.

Sec. 23013. Amendments to Regulations Relating to Transportation of Household Goods in Interstate Commerce.

This section would direct the DOT to update regulations relating to the interstate transportation of household goods, and to consider changes recommended by the Household Goods Consumer Protection Working Group.

Sec. 23014. Improving Federal-State Motor Carrier Safety Enforcement Coordination.

This section would require the Secretary to publish in the Federal Register a process to review each out-of-service order issued by a covered State within 30 days after the date on which the out-of-service order is submitted to the Secretary. This section also requires the Secretary to publish a process under which the Secretary shall review imminent hazard determinations made by covered States.

Sec. 23015. Limousine Research.

This section would require the Secretary to conduct research on crashworthiness and evacuation standards for limousines, and prescribe motor vehicle safety standards based upon that research. This section would also prevent a limousine operator from introducing a limousine into interstate commerce unless the operator has displayed the date of the most recent inspection under Federal or State law, the results of the inspection, and any corrective action to ensure the limousine passed inspection. This section provides that the Federal Trade Commission (FTC) shall enforce these requirements.

Sec. 23016. National Consumer Complaint Database.

This section would require GAO to examine the National Consumer Complaint Database of the Federal Motor Carrier Safety Administration, and to evaluate the effectiveness of efforts to consider and follow up on complaints submitted to the database, the types of complaints, and awareness of the database.

Sec. 23017. Electronic Logging Device Oversight.

This section would require the Secretary to submit a report to Congress on the processes used by the Federal Motor Carrier Safety Administration to review electronic logging device logs and to protect proprietary and personally identifiable information.

Sec. 23018. Transportation of agricultural commodities and farm supplies.

This section changes the agricultural exemption of the Motor Carrier Safety Improvement Act by changing the mileage limit from 150 miles from the source to 150 miles from either the source or the destination.

Sec. 23019. Modification of restrictions on certain commercial driver's licenses.

This section would require that a restricted commercial driver's license issued to an employee in a farm-related service industry be limited to the applicable seasonal periods defined by the State issuing the restricted commercial driver's license, subject to the condition that the total number of days in any calendar year during which the restricted commercial driver's license is valid does not exceed 210.

Sec. 23020. Report on human trafficking violations involving commercial motor vehicles.

This section would require the Secretary to submit a report to Congress relating to human trafficking

violations involving commercial motor vehicles, and include recommendations for countering human trafficking, including an assessment of previous best practices by transportation stakeholders.

Sec. 23021. Broker guidance relating to Federal motor carrier safety regulations.

This section would require the Secretary to issue guidance to clarify the definitions of the terms “broker” and “bonafide agents” in section 371.2 of title 49, Code of Federal Regulations.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE IV—HIGHWAY AND MOTOR VEHICLE SAFETY

Subtitle A—Highway Traffic Safety

Sec. 24101. Authorization of Appropriations.

This section would authorize appropriations for highway safety programs, research and development, high-visibility enforcement, priority safety programs, and operations of the National Highway Traffic Safety Administration.

Sec. 24102. Highway Safety Programs.

This section would create new highway safety program eligibilities to promote widespread and proper use of child restraints, improve recall awareness, prevent child heatstroke fatalities, reduce deaths and injuries from vehicles not moving over for stopped emergency response vehicles, and educate drivers to prevent misuse or misunderstanding of new vehicle technology. This section would also require States that have legalized marijuana to consider additional programs to educate drivers on the risks associated with marijuana-impaired driving. This section would change the frequency of State Highway Safety Plans from annual to triennial and require the Secretary to publish approved State Highway Safety Plans, State performance targets, and State progress toward meeting performance targets on a website.

Sec. 24013. Highway Safety Research and Development.

This section would increase funding for a cooperative program to research and evaluate priority highway safety countermeasures from \$2.5 million to \$3.5 million annually. The section also would direct the Secretary to evaluate the effectiveness of innovative behavioral traffic safety countermeasures to inform guidance for State highway safety officials.

AASHTO Analysis:

- AASHTO supports.

Sec. 24104. High-Visibility Enforcement Programs.

This section would require the Secretary to conduct three high-visibility enforcement campaigns each year.

Sec. 24105. National Priority Safety Programs.

The section would make improvements to priority safety programs, such as clarifying or expanding eligibility, to address underutilization of certain programs, including programs that address distracted driving and impaired driving. This section would also clarify the goals and allowable uses of funds for programs, such as for State traffic safety information system improvement grants, to improve the consistency and quality of State data. This section would also establish new priority programs to educate drivers and law enforcement officers about proper law enforcement practices for traffic stops and to

prevent deaths and injuries involving motor vehicles stopped on the side of the road.

AASHTO Analysis:

- AASHTO supports.

Sec. 24106. Multiple Substance-Impaired Driving Prevention.

This section would expand the use of penalty funds for States that have not enacted or are not enforcing open container laws for impaired driving countermeasures beyond those focused on alcohol-impaired driving. This section would also require a GAO study on State and local agency reporting of impaired driving data into federal databases.

Sec. 24107. Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence.

This section would expand the use of penalty funds for States that have not enacted or are not enforcing a repeat intoxicated driver law to include multiple-substance impaired driving countermeasures, rather than only alcohol-impaired countermeasures.

Sec. 24108. Crash Data.

This section would require the Secretary to revise crash data systems to be able to distinguish bicycles, electric scooters, and other individual personal conveyance vehicles from other vehicles involved in a crash. This section would establish a grant program to States to modernize data collection systems to enable them to more efficiently share data with the National Highway Traffic Safety Administration.

Sec. 24109. Review of Move Over or Slow Down Law Public Awareness.

This section would require the GAO to study Federal and State efforts to improve awareness and enforcement of laws that require vehicles to change lanes or slow down when approaching an emergency vehicle on the roadside.

Sec. 24110. Review of Laws, Safety Measures, and Technologies Relating to School Buses.

This section would require the Secretary to study the effectiveness of State laws that make it illegal to pass a stopped school bus on the road and identify best practices to address vehicles that illegally pass stopped school buses. This section would also require the Secretary to conduct a public safety messaging campaign to help prevent the illegal passing of school buses and improve the safe loading and unloading of school buses. This section would also direct the Secretary to research vehicle technologies and driver education methods that could further improve school bus safety.

Sec. 24111. Motorcyclist Advisory Council.

This section would establish a Motorcyclist Advisory Council to advise the DOT on motorcycle safety issues, including road design and maintenance, barrier design, and use of intelligent transportation systems. The section would require the Council to make recommendations on motorcycle safety to the Secretary, and for the Secretary to accept or reject the recommendations and report to Congress on these decisions.

Sec. 24112. Safe Streets and Roads for All Grant Program.

This section would establish a grant program for metropolitan planning organizations, local governments, and Tribal governments to develop and carry out comprehensive safety plans to prevent death and injury

on roads and streets, commonly known as “Vision Zero” or “Toward Zero Deaths” initiatives. The section would authorize \$1 billion for this program, with no less than 40 percent allocated to support the development of comprehensive safety plans.

AASHTO Analysis:

- AASHTO recommends adding States as eligible recipients.
- This program should be better coordinated with statewide safety efforts.

Sec. 24113. Implementation of GAO Recommendations.

This section would require the Secretary to implement GAO recommendations related to the national 911 program and to improve safety relating to pedestrians and cyclists.

Subtitle B—Vehicle Safety

Sec. 24201. Authorization of Appropriations.

This section would authorize appropriations for the National Highway Traffic Safety Administration to carry out motor vehicle safety programs and activities.

Sec. 24202. Recall Completion.

This section would require motor vehicle manufacturers to report to DOT information on recall campaigns, including the number of affected vehicles and the number of repaired vehicles. The section would also require DOT to annually publish data on recall campaigns, including the percentage of vehicles that were repaired.

Sec. 24203. Recall Engagement.

This section would require the GAO to examine the reasons vehicle owners do not have repairs performed to address recalls for safety defects and what steps could help more vehicle owners have repairs performed. This section would also require the GAO to conduct a study to determine the number of motor vehicles used by transportation network companies (for purposes such as ridesharing) that are subject to recalls and have not been repaired. This section would also require the DOT to identify methods to improve communications to vehicle owners to inform them about recalls and encourage them to have repairs performed.

Sec. 24204. Motor Vehicle Seat Back Safety Standards.

This section would require the Secretary to examine updating seat back safety standards for motor vehicles.

Sec. 24205. Automatic Shutoff.

This section would require the Secretary to update safety standards for vehicles with keyless ignition devices so that the vehicle automatically shuts off after it has idled for a designated period of time.

Sec. 24206. Petitions by Interested Persons for Standards and Enforcement.

This section would clarify language regarding petitions by interested persons.

Sec. 24207. Child Safety Seat Accessibility Study.

This section would require the Secretary to coordinate with other Federal agencies to study whether low-

income families and underserved populations have access to child safety seats and to take steps to improve access based on the study.

Sec. 24208. Crash Avoidance Technology.

This section would require the Secretary to require that all new motor vehicles be equipped with two crash avoidance technologies—forward collision warning and automatic emergency braking systems, and lane departure and lane keeping assist systems.

Sec. 24209. Reduction of Driver Distraction.

This section would require the Secretary to study driver monitoring systems to minimize driver distraction and disengagement, and, if warranted based on the results of the study, require a rulemaking.

Sec. 24210. Rulemaking Report.

This section would require the Secretary to regularly provide a written notification to Congress on the status of regulations or rulemakings that have not been finalized, including for several rulemakings required in the FAST Act and MAP-21. For each covered rulemaking, the notification must include an updated timeline, an expected date of completion, and a list of factors causing delays, among other details on outstanding rulemakings.

Sec. 24211. Global Harmonization.

This section would require the Secretary to cooperate, to the maximum extent practicable, with foreign governments, nongovernmental stakeholder groups, the motor vehicle industry, and consumer groups on global harmonization of vehicle regulations to improve motor vehicle safety.

Sec. 24212. Headlamps.

This section would require the Secretary to update the safety standard for headlamp systems, including to allow for vehicles to have adaptive headlamp systems.

Sec. 24213. New Car Assessment Program.

This section would require the Secretary to update and modernize the New Car Assessment Program (NCAP). Required changes to NCAP would include implementing a rating system for crash-avoidance technologies, similar to the rating system currently in place for the crashworthiness of vehicles. This section would also require the Secretary to establish and regularly update a roadmap to plan for and implement additional improvements to NCAP.

Sec. 24214. Hood and Bumper Standards.

This section would require the Secretary to examine updating hood and bumper safety standards for motor vehicles considering, in particular, crash avoidance technologies and technologies to prevent injuries and fatalities suffered by pedestrians, bicyclists, or other vulnerable road users.

Sec. 24215. Emergency Medical Services and 9-1-1.

This section would end the requirement for the National Highway Traffic Safety Administration and the National Telecommunications and Information Administration to report annually to Congress on how the agencies coordinate regarding 911 services.

Sec. 24216. Early Warning Reporting.

This section would direct manufacturers to comply with requirements to report data and information to DOT to help identify possible safety defects, including information on crashes and incidents.

Sec. 24217. Improved Vehicle Safety Databases.

This section would require the Secretary to improve the organization, functionality, and search capability of the National Highway Traffic Safety Administration’s publicly accessible vehicle safety databases.

Sec. 24218. National Driver Register Advisory Committee Repeal.

This section would repeal the National Driver Register Advisory Committee.

Sec. 24219. Research on Connected Vehicle Technology.

This section would require DOT to conduct research to examine how connected vehicle systems can safely account for bicyclists and other vulnerable road users.

Sec. 24220. Advanced Impaired-Driving Technology.

This section would require the Secretary to require all new passenger motor vehicles be equipped with advanced drunk driving prevention technology that can passively monitor and accurately detect that a driver is impaired.

Sec. 24221. GAO Report on Crash Dummies.

This section would require the Secretary to report on the processes used by the National Highway Traffic Safety Administration for studying and deploying crash test dummies.

Sec. 24222. Child Safety.

This section would require the Secretary to issue a final rule requiring all new passenger motor vehicles weighing less than 10,000 pounds gross vehicle weight to be equipped with a system to alert the operator to check rear-designated seating positions after the vehicle engine or motor is deactivated by the operator.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE V—RESEARCH AND INNOVATION

Sec. 25001. Intelligent Transportation Systems Program Advisory Committee.

This section would expand the membership of the Intelligent Transportation Systems Program Advisory Committee to include additional areas of expertise and experience, set member terms at three years, and provide for virtual meetings.

AASHTO Analysis:

- AASHTO supports the expansion of the ITS advisory committee from 20 to 25 members by adding representation from the additional specified transportation stakeholder sectors. AASHTO recommends that a representative of non-traditional automakers developing automated vehicles be added as well.

Sec. 25002. Smart Community Resource Center.

This section would require the Secretary to create a website with resources on smart community

transportation projects—projects that use innovative technologies, data, and other means to address local challenges—including technical assistance, training, and examples of projects.

AASHTO Analysis:

- AASHTO appreciates that the center would provide resources to local communities and states for ITS and smart community transportation programs. Under section (c) INCLUSIONS, the National Operations Center of Excellence (NOCOe) could be one such source of resources.

Sec. 25003. Federal Support for Local Decision-Making.

This section would direct the Bureau of Transportation Statistics (BTS) to conduct outreach and identify data needs of local government officials to make informed decisions about infrastructure investments. BTS would also have to create a plan to develop relevant data analysis tools for infrastructure investments in rural and urban communities.

AASHTO Analysis:

- States would be included in the outreach effort related to the development and/or update of tools and datasets for infrastructure investment decision-making, some of which might ultimately be developed by the Federal government, but the tools appear to be geared specifically toward local governments.
- Subject areas mentioned include tools and data related to maintenance, rebuilding to a state of good repair, economic development, freight plans and supply chains, affordable access, congestion reduction, and resilience, though topics are not limited.

Sec. 25004. Bureau of Transportation Statistics.

This section would authorize an additional \$10 million from the general fund in addition to funding from the Highway Trust Fund.

Sec. 25005. Strengthening Mobility and Revolutionizing Transportation Grant Program.

This section would establish a competitive grant program for city or community demonstration projects that incorporate innovative transportation technologies or uses of data, including coordinated automation, connected vehicles, and intelligent sensor-based infrastructure. The Secretary is directed to consider geographic diversity and select projects across rural, midsized, and large communities. Both the Secretary and the GAO must report on the progress of the program. The section would authorize \$100 million annually for the program.

AASHTO Analysis:

- AASHTO appreciates that the provision allows for State and other applicants for this program (not so recognized in the section-by-section analysis). AASHTO also appreciates the inclusion of automated transportation, connected vehicles, and innovative aviation technology among the multimodal aspects of this program. The specific priority provisions will foster innovation, especially those requiring data sharing and open platforms.
- This program potentially overlaps with the expansion of the current ATCMTD under section 5011 Advanced Transportation Technologies Deployment Program and should be clearly distinguished from that program. AASHTO recommends that the program be aimed at broadening the eligibilities of formula programs based on the learnings from this program.

Sec. 25006. Electric Vehicle Working Group.

This section would establish a 25-member electric vehicle working group, comprising a variety of Federal and non-Federal stakeholders, to provide Federal guidance and strategy for the development, adoption, and integration of electric vehicles into the nation's transportation and energy systems. The Secretaries of Transportation and Energy will lead the working group, and the working group is required to prepare a series of reports to Congress on barriers to electric vehicle adoption and possible opportunities and solutions.

AASHTO Analysis:

- The working group would include at least one representative from an organization representing State departments of transportation (NLC, NACo, AMPO, NASEO, OEMs would be represented as well).
- AASHTO supports the creation of this working group to advance electric vehicles in the USA, including the status of EVs involving business models and user fees for roadway improvements. AASHTO recommends that in addition to the representation of working group members listed, that a representative of users be included, e.g., AAA or the tourism industry.

Sec. 25007. Risk and System Resilience.

This section would direct the Secretary to develop a process for States, Tribes, local governments, and other entities to make quantitative risk assessments that can help to enhance the resilience of the surface transportation system, building on existing work by the Transportation Research Board and National Institute of Standards and Technology. This section would also direct the Secretary to provide technical assistance to these entities to help ensure system resilience.

AASHTO Analysis:

- Several State DOTs have already established a process to make quantitative risk assessments related to enhancement of resilience.
- This provision should not preempt State DOTs from continuing to use their established process.

Sec. 25008. Coordination on Emerging Transportation Technology.

This section would codify the Nontraditional and Emerging Transportation Technology Council, which improves agency coordination to enable and regulate new and novel transportation technologies through adoption of best practices and identification of a lead modal administration for a given technology.

AASHTO Analysis:

- AASHTO supports this provision, which would codify an existing USDOT group that would provide clarity for emerging transportation technologies that don't fit neatly within current federal funding categories.

Sec. 25009. Interagency Infrastructure Permitting Improvement Center.

This section would codify the duties and responsibilities of the Infrastructure Permitting Improvement Center. The Center will seek to expedite permitting and environmental reviews for projects, work with DOT modal administrations to modernize and improve permitting and project reviews, and develop metrics to assess the timeliness of permitting and projects reviews.

Sec. 25010. Rural Opportunities to Use Transportation for Economic Success Initiative.

This section would codify the Rural Opportunities to Use Transportation for Economic Success Initiative (ROUTES) Council and establish an Office within DOT to identify and address the needs of entities seeking

Federal grants and assistance for rural projects. The ROUTES Office would also collect relevant data and coordinate rural-related funding programs across modal administrations.

AASHTO Analysis:

- AASHTO supports.

Sec. 25011. Safety Data Initiative.

This section would establish the Safety Data Initiative, to be developed through collaboration among DOT leadership, through which the Secretary can conduct demonstration projects, award grants, and use other strategies that develop new data visualization, sharing, and analytic tools that Federal, State, and local entities can use to enhance surface transportation safety.

Sec. 25012. Advanced Transportation Research.

This section would establish the Advanced Research Projects Agency-Infrastructure (ARPA-I) to fund research and development on advanced transportation infrastructure technologies. ARPA-I would support novel, early stage research as well as advance conceptual research into testing and development. The section would provide for a Director to lead ARPA-I, and require that the Director ensure that the activities of ARPA-I do not duplicate other DOT research activities and programs. This section would require an evaluation of how well ARPA-I is achieving its goals within three years.

AASHTO Analysis:

- This new ARPA-I would be led by a presidentially-appointed executive directly reporting to the Secretary of Transportation with authority to hire and pay staff outside civil service rules. It has a requirement assigned to the National Academy of Sciences to evaluate ARPA-I, including whether it should to be continued.
- AASHTO recommends the inclusion of multi-modal facilities, ferry terminals and verti-ports in the definition of transportation “Infrastructure.” Under (e) Goals (1)(A)(i), the long-term costs should include “design” and “operations”

Sec. 25013. Open Research Initiative.

The section would establish a pilot program for universities, nonprofit organizations, and other entities (including state and local agencies) to submit unsolicited research proposals to the Secretary. This section would require the Secretary to coordinate any research carried out under the pilot program with other DOT and Federal agency research activities to avoid duplication of efforts.

AASHTO Analysis:

- While this would establish yet another discretionary grant program, it also opens up the possibility of proposing specific research topic areas of importance to State DOTs (and others) to USDOT for 80 percent funding (20 percent nonfederal share). However, funds for this program would come out of the existing University Transportation Centers (UTC) program at \$50 million per year, which would reduce the funding some State DOTs currently utilize through the UTCs.

Sec. 25014. Transportation Research and Development 5-year Strategic Plans.

This section would require the Secretary to update DOT’s Research and Development Strategic Plan every five years. This section also would amend the Strategic Plan to include reducing transportation cybersecurity risks.

Sec. 25015. Research Planning Modifications.

This section would require that annual research plans for the modal administrations describe the proposed research for the upcoming years and the potential impact of this proposed research. This section would also require DOT to publish a database with information on individual research projects, including the objectives of a research project and the amount of funds provided to a research project.

Sec. 25016. Incorporation of Department of Transportation Research.

This section would require the Secretary to review the results of research conducted by DOT every five years to identify opportunities to inform changes to laws, regulations, and policies that would improve the safety or efficiency of the transportation system. The section would require the Secretary to report to Congress on changes made as a result of research conducted by DOT, as well as any additional changes to statute or regulation.

AASHTO Analysis:

- Not of significant concern to the State DOTs. This provision may speed up incorporation of new technologies into mainstream practice by identifying statutory or regulatory restrictions on their use.

Sec 25017. University Transportation Centers Program.

This section would make technical revisions related to University Transportation Centers and would require the Secretary to publish a description of the process used to select University Transportation Centers on the DOT's website.

Sec. 25018. National Travel and Tourism Infrastructure Strategic Plan.

This section would require the Secretary to revise the national travel and tourism infrastructure strategic plan to consider the impacts of the COVID-19 pandemic.

Sec. 25019. Local Hiring Preference for Construction Jobs.

This section would require the Secretary, in collaboration with the Secretary of Labor, to study means to increase the diversity of the transportation workforce, including examining the use of pre-apprenticeship programs and local hiring preferences. The section would also require the Secretary use the results of the study resources for States, local governments, and private entities to increase diversity within the transportation workforce.

Sec. 25020. Transportation Workforce Development.

This section would call for a National Academy of Sciences study on the workforce needs of intelligent transportation technologies and systems industry. Using the results of this study, the section would require the Secretary to create a working group and a plan to address the recommendations and issues outlined in the National Academy of Sciences' study. This section would also require the Secretary to conduct a public service announcement campaign to increase awareness of career opportunities in the transportation sector across diverse segments of the population.

AASHTO Analysis:

- AASHTO supports.

Sec. 25021. Intermodal Transportation Advisory Board Repeal.

This section would repeal Section 5502 of title 49.

Sec. 25022. GAO Cybersecurity Recommendations.

This section would require the Secretary to implement GAO recommendations related to cybersecurity risk management and cybersecurity workforce needs. GAO would also be required to study DOT’s approach to managing cybersecurity for its systems and information, including the roles, responsibilities, and reporting relationships of senior officials with respect to cybersecurity.

Sec. 25023. Volpe Oversight.

This section would require the Secretary to implement recommendations from the Inspector General to strengthen its oversight of Volpe. This section would also require the GAO to submit a report examining the Volpe Center’s surface transportation activities.

Sec. 25024. Modification to Grant Programs.

This section would increase the set-aside for racial profiling grants from \$7.5 million per year to \$11.5 million per year and allow grants to be used for training programs.

Sec. 25025. Drug-impaired Driving Data Collection.

This section would require the Secretary to collect data and report on recommendations for toxicology investigations into drug- and alcohol-related crashes.

Sec. 25026. Report on Marijuana Research.

This section would require the Secretary to submit a report on research related to marijuana-impaired driving.

Sec. 25027. GAO Study on Improving the Efficiency of Traffic Systems.

This section would require a GAO study of the potential societal benefits of improving traffic system efficiency.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE VI—HAZARDOUS MATERIALS

Sec. 26001. Authorization of Appropriations.

This section would authorize appropriations to the Secretary an average of about \$130 million a year for hazardous materials emergency preparedness and other safety programs.

Sec. 26002. Assistance for Local Emergency Response Training Grant Program.

This section would authorize the Assistance for Local Emergency Response Training (ALERT) grant program, which promotes hazardous material response training for volunteer or remote emergency responders.

Sec. 26003. Real-time Emergency Response Information.

This section would amend a requirement for Class I railroads that transport hazardous materials to share train consist information, including the quantity of hazardous materials and the origin and destination of the train, so that railroads provide this information electronically to appropriate State and local officials, rather than through a third party.

DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021/ TITLE VII—GENERAL PROVISIONS

Sec. 27001. Performance measurement, transparency, and accountability.

This section would require the Secretary to develop metrics to assess the effectiveness of the activities funded by the IJIA.

Sec. 27002. Coordination regarding forced labor.

This section would require the Secretary to coordinate with the Commissioner of U.S. Customs and Border Protection to ensure that no illegal products or materials produced with forced labor are procured with funding made available under this Act.

Sec. 27003. Department of Transportation spectrum audit.

This section would require the Assistant Secretary of Commerce for Communications and Information and the Secretary to jointly conduct an audit of the electromagnetic spectrum that is assigned or otherwise allocated to USDOT as of the date of the audit.

Sec. 27004. Study and reports on the travel and tourism activities of the Department.

This section would require the Secretary to conduct a study on the travel and tourism activities within the Department.

DIVISION C—TRANSIT

Sec. 30001. Definitions.

The section adds a definition of “assault on a transit worker” to facilitate better safety data collection. It also adds eligibility for electric vehicle charging infrastructure in passenger parking facilities as part of a joint development project, while requiring recipients to collect fees related to the use of such charging facilities.

AASHTO Analysis:

- AASHTO supports better data collection involving safety of transit workers and the resulting measures from that data collection that would improve transit worker safety while on the job.

Sec. 30002. Metropolitan Transportation Planning.

The section allows metropolitan planning organizations to elect to expand considerations of housing planning processes into the metropolitan transportation planning process. It also allows for the use of technology to encourage public participation in the planning process.

Sec. 30003. Statewide and Nonmetropolitan Transportation Planning.

The section allows for the use of technology to encourage public participation in the planning process.

AASHTO Analysis:

- AASHTO supports greater public participation and transparency in the transportation planning process through the use of technology in statewide and nonmetropolitan areas (i.e. rural and small urban communities).

Sec. 30004. Planning Programs.

The section adds eligibility for a greater Federal share for transportation planning activities in lower-

density and lower-income portions of metropolitan areas and adjoining rural areas.

AASHTO Analysis:

- AASHTO supports maintaining matching ratios for transit programs and increasing the federal share under current public transportation programs.

Sec. 30005. Fixed Guideway Capital Investment Grants.

The section reauthorizes the Capital Investments Grants (CIG) Program. The section requires applicants to make progress toward meeting performance targets for asset management. The Small Starts thresholds are adjusted, and Core Capacity project eligibility is amended to use a 10-year timeframe to demonstrate capacity needs, instead of the limited 5-year timeframe used presently.

The section establishes a process for immediate and future bundling of projects to allow sponsors to move multiple projects through the CIG pipeline simultaneously, allowing sponsors to seek savings during the contracting process. The new bundling eligibilities replace the “Program of Interrelated Projects” eligibility, which the Federal Transit Administration has been unable to implement since 2012.

The section also updates the before-and-after studies process, requires the Secretary to create and update a public-facing project dashboard, and reduces the required Congressional notification timeframe before the Secretary may finalize a grant agreement.

AASHTO Analysis:

- AASHTO supports prioritizing increases in formula-based program funding, including funding to address bus and rail modernization and rural transit, while also providing funds for the non-formula New Starts/Small Starts program.

Sec. 30006. Formula Grants for Rural Areas.

The section amends the Rural Area Formula Grant Program by establishing fixed percentages for the Public Transportation on Indian Reservations and the Appalachian Development Public Transportation Assistance programs.

AASHTO Analysis:

- AASHTO supports increasing federal funding for both rural and urban area public transportation services to enhance regional and national economic competitiveness and promote community vitality. While the rural program provides no structural changes, AASHTO supports the significant growth to the rural transit program, including the Tribal and Appalachian transit programs. These programs will experience increases in annual apportionments as a result of this authorization.

Sec. 30007. Public Transportation Innovation.

The section updates requirements for the Secretary’s annual report on research activities under the Section 5312 innovation program. It authorizes the Secretary to reduce or waive matching requirements for research projects if there is substantial public benefit and provides updates and further flexibility in the Low-No Component Testing Program. The section provides eligibility for activities related to Advanced Digital Construction Management Systems.

AASHTO Analysis:

- AASHTO supports the Transit Cooperative Research Program, 49 U.S. Code § 5312. Through transit

research, these activities promote best practices and facilitate the deployment of new technologies, thereby enhancing increases in operational efficiency.

Sec. 30008. Bus Testing Facilities.

The section allows for bus testing facilities authorized under this section to use funds for the acquisition of equipment and capital projects related to testing new bus models.

AASHTO Analysis:

- AASHTO recommends amending this section to address the inefficiencies in the certification and compliance requirements imposed on State DOTs related to bus testing. AASHTO supports a single certification provided to the Federal Transit Administration demonstrating compliance with Altoona Test and Buy America requirements.

Sec. 30009. Transit-Oriented Development.

The section adds eligibility for site-specific plans.

Sec. 30010. General Provisions.

The section is a technical correction to section 5323(u).

Sec. 30011. Public Transportation Emergency Relief Program.

The section requires applicants for emergency relief program funds to submit proof of insurance for structures related to grant applications.

Sec. 30012. Public Transportation Safety Program.

The section includes provisions to enhance State safety oversight programs by strengthening rail inspection practices. The section also includes provisions to enhance practices related to the development of transit agency safety plans, improve safety training, reduce assaults on vehicle operators, and institute measures to reduce vehicular and pedestrian accidents involving buses.

AASHTO Analysis:

- AASHTO supports additional measures that would improve transit worker safety through better training and reduce transit worker assaults while on the job, and measures that would reduce conflicts between transit vehicles (buses) and pedestrians. While public transportation is the safest mode of transportation, rural public transportation is among the safest. As a result, AASHTO supports the permanent exemption of Section 5311 and 5310 providers from federal agency safety plan requirements.

Sec. 30013. Administrative Provisions.

The section allows for transit agencies selling rolling stock, equipment, or supplies past their useful life with proceeds over \$5,000 to recoup a portion of the local match.

AASHTO Analysis:

- State DOTs will benefit from this section by allowing transit agencies to use proceeds from rolling stock, equipment and supplies sales for routine and recurring activities such as the replacement of bus and bus-related equipment.

Sec. 30014. National Transit Database.

The section adds geographic service area coverage as a reporting requirement to the National Transit Database (NTD). The section also requires data relating to assaults on a transit worker and fatalities resulting from impact with a bus to be reported into the NTD.

Sec. 30015. Apportionment of Appropriations for Formula Grants.

The section increases the set-aside in the Section 5307 formula for Small Transit Intensive Cities from 2 to 3 percent. The section also increases the set-aside for state safety oversight grants from 0.5 percent to 0.75 percent.

AASHTO Analysis:

- While policy does not directly address Section 5307, AASHTO supports the significant growth in this program.

Sec. 30016. State of Good Repair Grants.

The section establishes a new competitive grant program to replace rail rolling stock that is past its useful life.

AASHTO Analysis:

- While policy does not directly address Section 5337, AASHTO supports the significant growth in this program.

Sec. 30017. Authorizations.

The section authorizes amounts to be made available under this Act.

AASHTO Analysis:

- AASHTO supports the funding increases from the Mass Transit Account of the Highway Trust Fund included in the bill for transit programs. Of importance to State DOTs, this section specifically addresses authorizations of:
 - The Section 5310 program (currently authorized at \$285.6 million) – the bill would increase funding to \$371.2 million in FY 2022, and continue growing to \$407.0 million in FY 2026.
 - The Section 5311 program (currently \$673.3 million) – the bill would increase the program to \$875.3 million in FY 2022, and continue to increase steadily to \$959.6 million in FY 2026.
 - The Section 5307 Urban Transit Formula program (currently authorized at \$4.9 billion) – the bill would increase funding to \$6.4 billion in FY 2022, and increase steadily to \$7.0 billion in FY 2026.
 - The Section 5339 bus and bus facilities grants (currently authorized at \$808.7 million) – the bill would increase funding to \$1.1 billion in FY 2022, increasing steadily to \$1.2 billion in FY 2026.

Sec. 30018. Grants for Buses and Bus Facilities.

The section increases the minimum allotment for States and territories under section 5339(a) from \$1.75 million to \$4 million and encourages utilization of innovative procurement practices. It raises the rural set-aside in the section 5339(b) “Buses and Bus Facilities” competitive grant program to 15 percent, up from the current 10 percent requirement.

The section ensures that lower-emission buses and vehicles, including natural gas-powered buses and

vehicles, are eligible for no less than 25 percent of funds made available under the program.

For applicants for zero-emission vehicles grants under the Section 5339(c) and section 5339(b) programs, the section requires submission of a zero-emission fleet transition plan, including a workforce transition plan, and provides funding for such activities.

AASHTO Analysis:

- AASHTO supports maintaining and growing the Bus/Bus Facility formula and discretionary program. With the funding increases, State DOTs can continue to invest in the rehabilitation and replacement of buses and bus-related equipment, and rehabilitate existing or construct new bus-related support facilities, transfer stations, and intermodal facilities.

Sec. 30019. Washington Metropolitan Area Transit Authority Safety, Accountability, And Investment.

The section reauthorizes federal funding for Washington Metropolitan Area Transit Authority (WMATA) through fiscal year 2030 at current annual levels, matched by funding from Virginia, Maryland, and the District of Columbia. Additionally, the section requires improvements in oversight, governance, and support of WMATA’s Inspector General.

DIVISION G—OTHER AUTHORIZATIONS/TITLE VIII—PUBLIC-PRIVATE PARTNERSHIPS

Sec. 70701. Value for money analysis.

This section requires a value-for-money analysis, an evaluation of the lifecycle cost and project delivery schedule along with the costs of using public funding versus private financing for the project, for projects over \$750 million in total cost, and utilizing either a TIFIA or RRIF loan.

DIVISION G—OTHER AUTHORIZATIONS/TITLE X—ASSET CONCESSIONS

Sec. 71001. Asset Concessions.

This section establishes the “asset concessions and innovative finance assistance” program, funded at \$100 million, to facilitate access to expert services for, and to provide grants to, eligible entities to enhance the technical capacity of eligible entities to facilitate and evaluate public-private partnerships in which the private sector partner could assume a greater role in project planning, development, financing, construction, maintenance, and operation, including by assisting eligible entities in entering into asset concessions.

DIVISION H—REVENUE PROVISIONS/TITLE I—HIGHWAY TRUST FUND

Sec. 80101. Extension of Highway Trust Fund Expenditure authority.

This section authorizes expenditures from the Highway Trust Fund through October 1, 2026.

Sec. 80102. Extension of Highway-related Taxes.

This section authorizes collection of Highway Trust Fund receipts through September 30, 2028.

Sec. 80103. Further Additional Transfers to Trust Fund.

This section transfers \$90 billion to the Highway Account and \$28 billion to the Mass Transit Account of the Highway Trust Fund from the General Fund.

DIVISION H--REVENUE PROVISIONS/TITLE IV – BOND PROVISIONS

Sec. 80403. Increase in National Limitation Amount for Qualified Highway or Surface Freight Transportation Facilities.

This section increases the private activity bond volume cap for qualified highway or surface freight transportation facilities to \$30 billion.

DIVISION J—APPROPRIATIONS/ TITLE VIII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

Division J provides advance general fund appropriations for programs included, which comprise programs authorized in earlier divisions of the IJA and new programs created in this division. All funding amounts are for a five-year period between FY 2022 and 2026.

- National Infrastructure Investments funded at \$12.5 billion.
 - Discretionary grant programs authorized in Section 21201 of the IJA.
 - \$7.5 billion for Local and Regional Project Assistance (RAISE) for any project.
 - \$5 billion for National Infrastructure Project Assistance for projects over \$500 million in cost, with a 50 percent set-aside for projects costing between \$100 million and \$500 million.
 - Multiple modes and sponsoring entities are eligible; TIFIA can be considered as non-federal share.
- Safe Streets and Roads for All Grants at \$5 billion.
 - Discretionary grant program authorized in Section 24112 of the IJA.
- National Culvert Removal, Replacement, and Restoration Grants funded at \$1 billion.
 - Discretionary grant program authorized in Section 21203 of the IJA.
- Strengthening Mobility and Revolutionizing Transportation Grant (SMART) program funded at \$500 million.
 - Discretionary grant program authorized in Section 25005 of the IJA.
- Highway Infrastructure Program funded at \$47.272 billion.
 - \$27.5 billion in formula apportionment to states for bridge replacement, rehabilitation, preservation, protection, and construction program.
 - 75 percent distributed by state share of the total cost of replacing all bridges classified as “poor”
 - 25 percent distributed by state share of the total cost of rehabilitating all bridged classified as “fair”
 - \$45 million minimum per state per year
 - 15 percent per state set-aside for off-system bridges at 100 percent federal share
 - \$5 billion in formula apportionment to states for electric vehicle charging.
 - Eligible activities include strategically deploying electric vehicle charging infrastructure and establishing an interconnected network to facilitate data collection, access, and reliability.
 - Can be used for contractor, and contractor can cover 20 percent non-federal share
 - Federal share at 80 percent.
 - Only for publicly accessible charging stations.
 - Must be used on a designated alternative fuel corridor; if fuel corridor is built out, can be used on any public road or publicly-accessible parking facilities.
 - State DOT plans required on use of funding for each fiscal year 2022 to 2026

- If actions are not taken, funds could be reallocated to localities and other states
 - \$300M for establishment of Joint Office of Energy and Transportation at USDOT and USDOE
 - 10 percent set-aside for “additional assistance” on deployment
- Nationally Significant Freight and Highway Projects (INFRA discretionary grants) funded at \$3.2 billion.
- \$9.235 billion in additional funding for the Bridge Investment Program authorized in Section 11118 of the IIJA.
- \$20 million in additional funding for the Tribal Transportation Program at 100 percent federal share.
- \$20 million for planning, feasibility analysis, and revenue analysis.
- \$150 million in additional funding for the Reduction of Truck Emissions at Port Facilities Program authorized in Section 11402 of the IIJA, apportioned to states.
- \$95 million for the University Transportation Centers.
- \$500 million in additional funding for the Reconnecting Communities Pilot Program authorized in Section 11509 of the IIJA.
- \$342 million for Construction of Ferry Boats and Ferry Terminal Facilities.
- \$1.25 billion for the Appalachian Development Highway System.